UNIVERSITY OF ALBERTA

PERCEPTIONS OF A 'QUALITY' LEGAL EDUCATION:

"LEARNING TO THINK LIKE A LAWYER"

by

BRENDA D. DAVIS ©

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ABSTRACT

This qualitative study explored the reflections of selected lawyers on their law school experience. The study considered a broad overview of participant experiences from the initial decision to enter law school through to a consideration of ongoing and future legal education issues. The purpose was to identify elements of a 'quality' legal education experience. The study evolved from the perceived need in higher and adult education literature to better understand the student experience.

The study drew upon the insights of graduates from four Western Canadian law schools whose comments were grounded in both their educational as well as professional work experiences. The learner's post-graduation perspective provided guidance in the exploration of quality by identifying elements of a quality pre-professional university program. Both legal education and adult and higher education literature were reviewed in conjunction with participant's statements about their personal experiences of law school. The study specifically contributes to the research literature in legal and higher education as both have generally disregarded the learner's perceptions of the educational experience.

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CHAPTER 1

RESEARCH PROBLEM, DESIGN AND METHODOLOGY

INTRODUCTION

Legal education in Canada is in an era of dynamic change, yet it has not developed a clear concept of quality which could provide direction to the field. Significant changes in recent years include the increasing distance between practicing lawyers and the law faculty. The fact that legal education at the university level is now perceived as a distinct enterprise, quite separate and apart from the other educational activities of the legal profession, was noted as being a significant development at the 1985 National Conference on Legal Education in Winnipeg. Arthur (Matas & McCawley (ed.):1985) said that this separation "... made possible conscious thought about what is being taught (at law school) and how it should be taught." (p.162) However, there has been little evidence to support that academic scholarship in respect to legal education at law school has, in fact, increased since the separation which would justify this statement.

In studying 'what is being taught and how it should be taught', it is important to consider the experiences of law graduates, as they are in the best position to reflect upon their legal education experience and consider its quality. This is particularly important as graduates can draw upon both their educational and professional experiences to guide their assessment of legal education. Therefore this research study explored the educational experience of law school through the perceptions of a number of selected former graduates who have since achieved the designation of becoming a lawyer whether or not they currently practice law.

During law school, the quality of the teaching and educational value of specific courses are routinely assessed on a course by course basis, by students, at the end of each term. Yet the researcher was unable to locate any research study which asked graduates to consider, or assess, the quality of their over-all legal education experience once they had commenced working in the legal profession. Research and evaluation of higher education itself is generally considered in need of further study. This research study is particularly critical as it examines an area - the education of law students - which has received almost no attention in terms of formal research. In the consideration of the law graduates' perspectives on what constitutes a 'quality' legal education it was recognized that quality was a somewhat elusive concept. Mahew et. al. (1990) stated that,

> A major item for clarification before quality can be addressed is nomenclature. Every educational institution insists that its primary commitment is to "quality" or "excellence," terms that are used interchangeably ... (yet) while quality as a concept shares certain abstract dimensions whenever it is discussed, it lends itself to so many different perspectives that meaningful dialogue is impossible unless the participants agree on a common approach. (p.23-25).

In this study, despite considerable deviation there were many areas of general consensus uncovered regarding the characteristics of a quality legal education. The definition of 'quality' was premised in part upon the concept that "Quality is fitness for use," (Juran:1974:p.22) Consideration was therefore given to how well law school facilitates the transition of the learner to the profession of law or facilitates an acceptable alternate career path in terms of the acquisition of the necessary skills, knowledge and values. After a review of the various definitions of 'quality' from the literature, the following definition was found by Mayhew et. al (1990) to be both appropriate and workable in the context of higher education:

> Quality undergraduate education consists of preparing learners through the use of words, numbers, and abstract concepts to understand, cope with, and positively influence the environment in which they find themselves. (p.29)

This definition was found to be useful in guiding the research inquiry. While it was recognized that quality takes on slightly disparate meanings in different settings, several concepts from Total Quality Management (TQM) literature were found to be useful in framing the study of pre-professional legal education at law school.

One of the key concepts of TQM is defining quality in terms of the needs of the people and groups that are served by an organization. Law faculties need to be concerned with at least three interest groups, or "clients," who are vitally concerned with the quality of legal education in Canada:

1) the public;
2) the respective Law Societies; and
3) the students.

All of these groups have their own unique perspective and each has a legitimate interest in ensuring that students receive the best education possible in law. The public is entitled to require that law students are well trained and able to offer professional legal services upon admission to the Bar. Lawyers are a self-governing profession monitored by their respective Law Societies which also have a vested interest in ensuring quality legal education as a pre-requisite to commencing a term of articles and ultimately attaining membership at the Bar. This study focused only on the third group of 'clients', the students, specifically former students who are in a unique position, as members of all three interest or client groups, to ascertain whether they were well-served by the legal education they received at university.

Selected former students were asked to reflect upon their overall legal education at university and provide detailed information on learning experiences, which proved valuable in their later professional life. Participants were also asked to comment upon the potential for improvement of legal education programs at university and to substantiate their recommendations with examples drawn from personal experiences both educational and professional. In compiling and analyzing the reflections of graduates, the study should contribute to an increased understanding of legal education as well as provide initial ground-work in the critical first step of 'continuous improvement' in higher education.

The research should also provide some specific information on the over-all quality of legal education in Western Canada although as Chafee (1992) cautioned, those who are unfamiliar with Total Quality Management (TQM) principles and their application to post-secondary education, often express frustration about what they perceive to be the vagueness and incompleteness inherent in this approach. It is difficult, for example to provide a single precise definition of quality, the purpose of TQM principles are not necessarily to provide the 'answers.' Rather TQM offers assistance in posing key questions and providing an array of potential methods through which the faculty itself can address the issues through their own expertise and insights. The institutes of higher learning are ultimately responsible for creating the conditions for, and providing the foundation of, a 'continuously improving' organization.

The information and opinions elicited from participants were examined in the context of the two competing aims of law school:

1) providing students with an academic background of legal theory; and
2) ensuring adequate training for the practice of law.

Determining the aims and objectives of legal education was critical to the analysis of what constitutes a 'quality' legal education in Canada. The teaching and learning dynamic in law school and the need for improvement had to be considered against the back-drop of whether law school should have an exclusively academic focus or whether there must be a practical skills component.

According to Green (1994) "It is a truism to say that ... quality is the touchstone of the 1990's". In examining how quality might be defined and assessed in the context of law school, the study drew upon legal education literature, research in the field of adult and higher education and the theory and practice of quality management. Two key concepts were the 'commitment of continuous quality improvement' and the 'customer' or 'client' as the centre or standard in determining progress towards quality.

PROBLEM STATEMENT

What do lawyers as former students think, when reflecting upon their own experiences in law school, about the quality of their legal education at a university in Western Canada.

Sub-problems:

1) What specific elements are identified as being part of a high 'quality' law school program?

2) What significant formal educational experiences do participants identify as being associated with the 'quality' of their learning in law school and is this related to teaching strategies?

3) What are the significant "informal" educational experiences at law school which impacted upon the quality of the law school experience?

4) What do participants identify as challenges in legal education now, based upon their past experiences, both educational and professional?

SIGNIFICANCE OF THE RESEARCH

This study explored the over-all 'quality' of legal education at law school through analyzing the reflections of research participants about their legal education experiences at the university level. Legal education, and the preparation of individuals for a career in law, has changed dramatically in the past few decades. In fact, McLaren (1985) who reviewed the history of legal education in common law jurisdictions in Canada, stated that it was not until 1950 to 1960 that legal education across Canada consisted of the present requirement for a minimum two year pre-law university education, followed by a three year law program at a recognized university resulting in a degree and further apprenticeship in some type of articling and/or bar admission program. The inclusion of legal education in a faculty at a degree-granting university and the requirement that students follow through with the specific steps outlined by McLaren are both relatively recent. This may in part account for the lack of formal research of legal education generally and specifically the quality of education received by law students in their required three year attendance at a law faculty in Canada.

A thorough survey of the literature revealed very little research in the area of legal education and even less which was specific to Canada. In addition, there were no studies found which considered the perceptions of graduates as to the quality of their legal education experience and the effectiveness of law school in preparing them for future careers.

This confirms the finding of Elkins (1985) that the study of legal education and the literature that has been written, fails in one significant respect,

> ... it ignores students, their experiences, hopes, dreams, fears and failures, their experience of profound personal change. We need to take seriously everyday routines which structure reality and define a student's life world. (p.55)

This study may help to address the lack of attention devoted to the student perspective by exploring the 'quality' of the over-all learning experience at law school through the recollections of former students.

In this way, the student's learning experience in terms of their own needs, both emotional and intellectual, their preferences regarding the teaching and learning dynamics and their own personal experiences in terms of both formal and informal learning opportunities at law school have been identified. Participants provided a unique perspective as that they drew upon both their experience as former students and also as professionals in their reflections upon the law school experience.

There was a need for education theory to inform attempts at improving the learning environment in law school. This included clarification of the aims and objectives of a quality legal education and recognition of effective teaching and learning strategies. This, in turn, required an over-all understanding of the education experience from the perspective of the law student, considering both the formal and informal learning opportunities which make up the totality of the law school experience. Finally, a plan for the ongoing (continual) improvement of legal education was considered as this constitutes a necessary element of Total Quality principles.

The more that is understood about how students learn and how they perceive a learning situation and over-all educational environment, the easier it will be to improve the 'quality' of education. This should assist in meeting the expectations of not only the learner but other interested 'clients' such as members of the legal community and society. The study aimed to increase what is known about learners in higher education generally, in addition to addressing the specifics of legal education. The study was important for the questions it raised and the need for further research of both a practical and theoretical nature it uncovered. This research may contribute to the further study of 'quality' education and the future exploration of the perceptions of students in their interaction with the legal education environment at law schools in Canada.

LIMITATIONS / DELIMITATIONS

Limitations of the Study

In any qualitative study there are definite limitations in terms of sampling, replication and generalizability. In this study the researcher worked alone and consequently it was only possible to canvass a limited number of participants. A further limitation was that the researcher was solely responsible for collecting and analyzing the data. This was partially addressed by working with a peer who was available to discuss the data analysis process and by keeping a research journal and noting personal reflections.

In addition, other researchers may have identified or selected different themes and commonalities from the data. Due to the amount of data in the form of transcripts, it was possible that some distinctions may have been superficially covered. For example, the themes compiled did not focus upon individual variables such as gender, ethnic background, socio-economic status, pre-law academic or work background and marital status. Specific characteristics of the individual were not matched to the comments made by that participant. In addition, other extraneous or unrelated incidences or personality characteristics may have affected the participant's responses in ways that cannot be entirely accounted for. These factors may have impacted unfavourably upon a participant's accurate or impartial recollection of the law school education experience.

Delimitations of the Study

This research was delimited to the study of legal education at law faculties in Western Canada. The participants were selected from former students who graduated with a law degree from a Western Canadian University within a specific time period (1985-1995). The study focused only upon the perceptions of former students and the data were compiled through requesting information from selected members of this group. Participants selected are not necessarily reflective of law students generally in Canada, nor even of Western Canada.

DEFINITION OF TERMS

As part of the framework of the study the definition of quality was not determined by the researcher in advance. During the conduct of the data gathering, participants were free to define a 'quality' legal education as it related to their personal experience of law school. The purpose of the research was exploratory, to discover the definition of quality from the perspective of law school graduates. At the conclusion of the research, quality, in the context of legal education could be considered as the preparation of the learners in acquiring the necessary knowledge, skills, and values to understand, cope with, and positively influence the environment in which they find themselves following graduation

For the purposes of this study the following definitions were used:

Formal Experiences: All activities required by registration in a course offered by the law faculty. This included class-room instruction and discussion as well as all activities required to successfully complete the course such as research papers, assignments, required moot court experiences and final exams.

Informal Experiences: All activities which students engaged in that are associated with the law faculty but students are not required to be participants in order to complete their studies. Examples include: participation in voluntary moot court competitions; volunteering at a Student Legal Aid (SLA); forming friendships; and other involvement in extra-curricular social activities whether strictly for fun or for more serious academic purposes (i.e. engaging in a study group).

Faculty: All instructors who taught courses offered by the law faculty during a university session. This included both full-time academic staff and part-time sessional/adjunct instructors.

Former Students: Graduates of a law faculty in Western Canada during the period 1985-1995 and participants in this research study.

ASSUMPTIONS

Four of the underlying assumptions of this study were:

1. That former students consulted possessed the ability to recall the necessary information to assess their law school experiences, make determinations in respect to the 'quality' of learning experiences and respond to the specific questions in the interview process. (i.e., that they were able to remember and accurately describe their learning experiences, providing distinct examples from their years at law school.

2. That the specific legal education terminology used by participants would have similar meaning when comparing comments of the participants. (ie. clinical education; moot court experience; substantive law courses)

3. That former students would be able to recall with some accuracy, learning experiences that took place from 1 to 10 years in the past.

4. That legal education programs in Western Canadian law faculties are similar enough in nature to warrant comparison of the comments of participants regarding their legal education experiences.

RESEARCH DESIGN AND METHODOLOGY

Introduction

What do lawyers as former students think, when reflecting upon their own experiences in law school, about the quality of their legal education at a university in Western Canada.

The purpose of this research was to better understand the legal education experience at law school. The research explored the experience of law students through the eyes of lawyers who were asked to reflect upon and assess the over-all quality of their law school education. This included consideration of: the purpose of law school; the teaching & learning dynamics; formal and informal learning experiences in law school; and ongoing issues in legal education.

As the research focused on the reflections of former law students and the subjective appraisal of their legal education experience, a qualitative research paradigm, informed by a phenomenological perspective, was selected as the most appropriate approach. Maykut and Morehouse (1994) contend that adherence to traditional methods of inquiry have limited educational research in the past particularly in respect to the subjective experiences of students. "Many scholars have called for the use of qualitative research to help us increase our understanding of human experience ...". (p.150) As the research study also concentrated on the personal interpretation of events that occurred in law school, it was important to take a phenomenological approach which "... is a focus on understanding the meaning events have for persons being studied." (Maykut & Morehouse:1994:p.3). The qualitative research approach included data collection through intensive interviews with former law students with resulting data being systematically transcribed and analyzed. The theory building which resulted was based on the intrinsic relationship between the data and the actual experiences of students.

As highlighted by Kirby and McKenna, (1989)

> The selection of the method is a critical aspect of researching and is usually based on what kind of information is sought, from whom and under what circumstances. It is important to recognize that methods appropriate for gathering abstract, theoretical information will not be equally appropriate for gathering subjective experience. (p.63)

For this reason a more traditional quantitative approach to research was not considered as the best method or paradigm.

Qualitative Research

The following characteristics of qualitative research as outlined by Bogdan and Biklen (1992) provided the basic framework for this study:

1) the research is descriptive in that it is rich in detail and description;

2) it is concerned with process rather than simply outcomes and products;

3) data are analyzed inductively; and

4) the participants' perspective, that is, how they make sense and meaning in their lives is an essential concern.

1) Research Approach

In order to understand the experience of others, one must be attuned to their view and perception of their experience and must listen to them as they tell their stories. Thus it was important to hear directly from law graduates in order to discover the subjective experiences. According to Borg & Gall (1989) "... much can be learned from human subjects simply by asking for their perceptions" (p. 386).

The research question was addressed through an exploratory study, using focus group and one-to-one interviews as a method to gather information from law school graduates. As part of the research design, participant involvement was initially generated through an informal discussion group to identify issues. This initial 'focus' group was essentially a spontaneous gathering of lawyers without regard for background or group characteristics. The individuals met in a social setting with limited advance notice that they should come prepared to discuss their law school experiences. The group met informally for over an hour discussing their perceptions of law school. Limited guidance was provided by the researcher and participants set the ambit of their exchange. The dialogue helped the researcher to establish the framework of the study. Subsequent to this meeting, and based upon the notes taken of the discussion, the researcher was able to generate the questions which guided the subsequent focus group. The Focus Group Guide for Participants which was developed is contained in Appendix F.

For simplicity of terminology the initial discussion group, whether technically within the strict definition of a focus group, has been termed Focus Group #1. Questions were developed and tested in a second focus group and a verbatim transcript was made from a tape recording of this session. The group of law graduates who were convened by the researcher to purposely discuss their law school experiences will be referred to as Focus Group #2 throughout the thesis. The Interview Guide which was developed following Focus Group #2 is contained in Appendix G. This Interview Guide was used for all of the one-to-one interviews.

Finally twenty (20) one-to-one interviews were conducted to provide further data which was gathered by taping and transcribing the responses which participants gave to the questions developed and tested in the two prior 'focus' group sessions.

Focus Group #1 - followed the definition of Beck, Trombetta, and Share (1986) who described the focus group as "an informal discussion among selected individuals about specific topics relevant to the situation at hand" (p.73).

One of the characteristics that distinguishes focus groups from other qualitative interview procedures is the group discussion. The major assumption of focus groups is that with a permissive atmosphere that fosters a range of opinion, a more complete and revealing understanding of the issues will be obtained. The goal of focus group interviews is to create a candid, normal conversation that addresses, in depth, the selected topic. (Vaughn et al: 1996:p.4)

The following is a list that Vaughn (1996) developed indicating common uses of focus groups. The first three examples are accurate descriptions of Focus Group #1 (*) and the last four are indicative of the purposes of Focus Group #2 (**) in this study.

(*) 1) Develop a general understanding of a target groups' perceptions of a specified topic.

(*) 2) Identify the language and key concepts that target groups use to discuss a specific topic or issue.

(*) 3) Generate research hypotheses that can be further developed and tested using other research approaches.

(**) 4) Field test a research procedure, measure, or reaction to a set of research procedures that the researcher intends to implement.

(**) 5) Solicit ideas that relate to the topic of interest to determine whether the identified research questions are complete and represent those that are viewed as important by key stakeholders ...

(**) 6) Key ideas that relate to the topic are identified. The importance or significance of these key ideas can be described.

(**) 7) How strongly the participants feel about these key ideas can be identified ..." (Vaughn et al: 1996 at 40)

The one-to-one interviews helped the researcher collect more individualized accounts of law school without the influence of other participants. Interviews are a special form of interaction between people, the purpose of which is to elicit information by asking questions. (Kirby and McKenna: 1989 at p. 66). The "Interview Guide", which was used in all one-to-one interviews, was a series of questions developed on the basis of issues identified in Focus Group #1. The questions were then 'tested' in Focus Group #2 and found to generate information which directly addressed the research question. A copy of the "Interview Guide" is located in Appendix "G".

2) Data Collection

In the study the data gathering process was only partially structured so that the participants were able to freely discuss their experiences. All data was gathered through either group or one-to-one interviews with former law students. After the initial Focus Group #1 was conducted, where the only criteria for participation was attendance at law school in Canada, all subsequent participants that were selected had at least one year of work experience following graduation and no participant had been out of law school for more than 10 years.

All participants in Focus Group #2 and the one-to-one interviews were former students who graduated with a law degree from a Western Canadian University between the years 1985-1995. The study considered only Western Canadian Universities as former students were accessible and the researcher was familiar with members of the bar in three of the four Western provinces. Participants selected were available for in-person interviews in two cities in Western Canada, which would not have been as easily accomplished had a broader selection of law schools in Canada been selected for inclusion in the study.

The Researcher

The researcher is a Masters student in Education at the University of Alberta and a lawyer in Alberta (non-active) and British Columbia (practicing). In addition, the researcher has taught as a sessional instructor at two universities in Western Canada.

Participant Selection

The data were gathered through qualitative methods - two focus groups and twenty (20) one-to-one interviews. In order to answer the research question it was important to "select information rich cases" (Patton:1990:p.169). Purposive rather than random sampling was therefore selected as appropriate. "By purposely selecting a wide range of subjects ... the qualitative researcher will be more likely to uncover the full array of "multiple realities" relevant to the inquiry. (Borg & Gall:1989 at p.386).

Focus Group #1 was primarily an ad hoc discussion group where the only criteria to 'qualify' individuals to participate was that all individuals had graduated from a law school in Canada. Most of the participants were acquainted with each other although the researcher had only met three of the eleven individuals prior to the session.

Contacts made with participants in Focus Group #2 and the one-to-one interviews were made initially through a "snowballing" technique. "This is a technique used to identify individuals who might be interested in participating in your research. Each person you survey or interview, for example, might be asked to identify another person who could be contacted." (Kirby and McKenna:1989 at p. 99). Participants selected for Focus Group #2 and the one-to-one interviews were also chosen through purposive sampling. While a 'snow-balling' technique was used to gather potential contacts, individuals were ultimately selected in order to provide at least a representative number of female and male participants. Additional criteria used by the researcher in selecting participants are identified below:

Criteria for Focus Group #1: Focus Group #1 was set up with minimal involvement on the part of the researcher. The only requirement was that all members of the focus group had attended law school in Canada. There were eleven participants in Focus Group #1. The participants ranged in legal experience from one articling student through to a person who graduated in the mid-1970's. Participants had worked in a variety of areas of law and for a broad range of law firms. A couple of participants had already left law and were practicing alternate careers. This included one participant who had chosen not to article following law school.

Nine of the eleven participants had been "called to the Bar" and were able to practice law in some province in Canada. A couple of participants were qualified to practice in more than one province. The participants were all currently working in a Western Canadian province, however, they had graduated from law schools across Canada. The discussion which was generated in this session was completely unstructured and spontaneous. The researcher played a minimal role in facilitating the discussion. Focus Group #1 was not taped - notes were kept by the researcher of key issues raised by the group.

Criteria for Focus Group #2: A screening procedure was developed to aid in the selection of the specific participants for the structured focus group interview. There were ten individuals scheduled to attend which included an even balance of female to male although one individual (male) was unable to attend and notified the researcher on the day of the Focus Group. The remaining nine participants were representative of a range of ages (both now and at the time of entering law school) and possessed a broad spectrum of career experiences following graduation. This included work experience as government lawyers, non-practicing and practicing lawyers and two individuals who had left the practice of law. Those participants in the group who were still practicing law included representation from sole practitioners and individuals who worked either as partners or associates in small, medium and large-size firms. All participants were graduates of the same law faculty within a two year time period.

Criteria for One-To-One Interviews: Twenty, semi-structured interviews were conducted using similar criteria to select participants. There were only two differences in criteria between Focus Group #2 and the One-to-One interviews:

1) Participants in the interviews came from a range of law schools in Western Canada; and
2) Participants had graduated over a ten year time period.

In setting up the interviews, individuals were contacted by the researcher using names provided by other participants or through personal contacts in the legal profession. The participants were screened to some extent so that there was representation for year of graduation. The average year of "call to the bar" was five years prior to when the interview was conducted although there was a range of participants over the full ten year period. There was also an attempt to include participants from as many Western Canadian Law Schools as possible and 4 out of the 6 schools had a graduate interviewed in the study. Participants were also selected to represent a mix of non-practicing and practicing lawyers. Work experience included practice in large, mid-size and small firms as well as in government and other organizations.

Contact With Participants: Each participant in Focus Group #2 and the individual one-to-one interviews were contacted by telephone and asked if they would be willing to be interviewed about their experiences in law school. The formal telephone request and confirmation letter are attached as Appendices "A" and "B". All of the individuals who were contacted agreed to participate if they were available in terms of time. There were eleven participants in Focus Group #1 and nine participants in Focus Group #2 making a total twenty former law students who participated in the two focus groups. There were twenty additional participants in the one-to-one interviews in the study. The following observation by Patton (1990) was helpful in determining the appropriate sample size:

> ... validity, meaningfulness and insights generated from qualitative inquiry have more to do with the information-richness of the cases selected and the observational/analytical capabilities of the researcher than the sample size. (p.185)

In summary, the criteria used to select participants in Focus Group #2 and the one-to-one interviews were individuals:

a) who had graduated with a law degree from a university in Western Canada within the past decade;

b) who were able to attend interview sessions in either of two urban centres in which the researcher conducted in-person interview;

c) who reflected a variety of individual realities through diversity of personal characteristics including representation from both genders, they were of different ages and possessed a broad range of educational and work experience; and

d) who were able to discuss and articulate their ideas and thoughts, and were available and willing to participate in the study.

The primary purpose for using these selection criteria was to ensure that a cross-section of lawyers participated in the study. The researcher wanted participants who following graduation had experienced a variety of work situations as this could affect the reflections that the person had on the learning experience and therefore influence their perception of a quality legal education. The length of time that had elapsed since graduation, and other personal factors (ie. gender) may have also influenced perceptions of the quality of legal education. Participants were selected, given the restriction of the sample size, to reflect as wide a variety of personal frames of reference and experiences as possible. The aim was to gather a broad range of perceptions of a quality learning experience in law school.

Data Collection Procedures

Research was carried out in a natural setting. The one-to-one interviews were conducted wherever it was convenient for the participant. Locations included: law offices; the court-house; restaurants; and private residences. Focus Group #1 was conducted at a restaurant in a secluded seating area and Focus Group #2 was held at a private residence.

The data were gathered directly from the people who had the necessary information to address the research question. The fact that the researcher is also a lawyer and former law student helped in accessing the individuals who could provide the necessary information.

According to Kirby and McKenna (1989), "If you are a member of a group from whom you seek information, your access to them (the participants) is different than an unfamiliar researcher's would be". (p.103)

Good rapport was critical and was fostered by a straightforward introduction of both the research focus and the researcher's background. Information that would ease a participant's concerns was provided. This included details such as confirmation of meeting dates and times by telephone and by mail where possible. All participants were informed that arrangements could be made following their interview or focus group session for further comments. Participants were also given the opportunity to review their transcripts, however, no one chose to exercise this option. A brief explanation of how the data would be used was provided to all participants and further information was given if requested.

3) Data Analysis

As is characteristic of qualitative research, the primary data-gathering 'instrument' was human contact which was initiated by the researcher. The researcher used two primary types of data collection methods:

- I. Focus Group Interviews:
    - Unstructured Format (Focus Group #1) - Notes taken
    - Semi-Structured Format (Focus Group #2) - Tape Recording
- II. One-to-One Interviews:
    - Semi-Structured Format (All Interviews) - Tape Recording

All one-to-one interviews and the Focus Group #2 session were tape-recorded and verbatim transcripts were made. As indicated earlier, the researcher prepared general notes following Focus Group #1 and these were used primarily to identify specific themes for further exploration in future data collection. Very few complete quotations were gathered from Focus Group #1 but it furthered the research design by providing an initial survey of the area.

Tape-recorded sessions were listened to several times by the researcher although verbatim transcripts were available. Auditory review of the responses helped to provide a better appreciation of the speakers' inflection and the emotive content of the data. Transcripts were also reviewed in detail and key phrases and ideas in response to each question were highlighted. This process identified the repetition of themes and areas where there were commonalities in the participants experiences. Borg & Gall (1989) have set out the process of inductive data analysis as follows: "the qualitative researcher studies the data inductively in order to reveal unanticipated outcomes. In other words, the qualitative researcher first gathers the data and then tries to develop understanding and draw generalizations" (p.386).

Once the data from the transcripts had been reviewed numerous times and themes identified, a summary of the content for each participant was charted. The summarized responses were then organized under specific issues in Table format. This led to further revision and clarification of the key themes. The literature was then reviewed in greater detail to provide further support or commentary on the findings. Finally specific quotations from the transcripts were identified and selected as being the most representative of either a general theme or an individuals unique ('negative') or contrary perspective.

Initially the number of themes identified was expansive with many different categories. According to Maykut and Morehouse (1994) it is quite typical for the initial review of the data to reveal numerous potential categories. "The number of categories derived from any particular data set will depend on the focus of inquiry, the type(s) of data collected and the analytical skills of the researcher" (p.138).

It was necessary to develop a number of propositions that helped define categories in order to combine similar data and limit the number of themes. Propositions were useful in this exercise which followed the research definition of Taylor & Bogdan (1984) who stated that, "A proposition is a general statement of fact grounded in the data" (p.134). Propositions provided the rules for inclusion and helped to reduce the data to a manageable proportion and to better convey the meaning of the data. Data generally was consistent, however, whenever participant comments did not fit a category or theme (negative instances) there was an attempt in the research to give 'voice' to the dissent. Otherwise in accordance with Taylor & Bogdan (1984) "... propositional statements (were derived) from a substantial accumulation of the positive instances" (p. 134).

4) Ethical Considerations

The following measures were taken to address the ethical concerns in respect to the study:

1. The study was approved by the Department of Educational Policy Studies' Ethics Review Committee.

2. Each participant was advised by the researcher as to the purpose of the study, the degree of commitment required, the specific activities that would be involved, how the data would be used and the ethical standards of the study. This was to ensure that the participants were clearly aware of the nature and purpose of the study.

3. Participation in the study was voluntary and prior to becoming involved, each participant was asked to sign a consent form. The 'Participant Agreement Form' which was used is included in Appendix "H". All participants were informed that they had the right to 'opt out' of the study at any time and that any identifying information in the study would be kept anonymous and confidential. If participants had any questions or concerns with the study, they could contact the researcher or the researcher's advisor at any time. All materials generated from the research were kept secure when not in use. Following completion of the study, the tapes and any identifying documentation or notes will be destroyed.

SUMMARY

This study collected and reviewed the comments of law graduates who were asked to reflect upon the quality of the education they received at law school. This included their perceptions of their legal education experiences in light of their later professional life. While at law school, students can generally provide immediate feedback at the end of a specific course particularly in respect to evaluating the calibre of instruction. However there are few if any opportunities to consider the overall quality of a students education experience.

There has been even less occasion for former students, who have had to use the education received in their professional career, to later provide feed-back on its quality. This study allowed participants to reflect, assess, and comment upon the years of pre-professional education they received at university. In this study, former students were able to consider their law school education from a broad perspective.

Questions asked allowed them to reflect and comment upon:

1) their over-all educational experience;

2) their specific recall of a variety of teaching-learning dynamics in both formal and informal situations; and

3) their present concerns about issues in legal education with an opportunity to consider necessary improvements for improving the quality of legal education in the future.

Chapter 6 - "Conclusion" follows the four data analysis chapters and provides an over-all summary of the research and recommendations.

ORGANIZATION OF THE THESIS

This research study, which was an initial foray into a hitherto unexplored area, compiled and analyzed the perceptions of selected alumni who graduated from university law programs in Western Canada between the years 1985 to 1995. The focal question of this study was: "What do lawyers, as former students think, when reflecting upon their own experience in law school, about the quality of their legal education?" Further sub-questions were developed to elaborate the research question. The responses to these questions resulted in the identification of four themes.

These themes were:

1. the purpose of law school which included 'learning to think like a lawyer';
2. teaching and learning dynamics and formal learning experiences;
3. informal learning in law school; and
4. issues and future direction in legal education.

Each of the themes is explored in a separate chapter together with an analysis of data associated with the theme, coupled with a review of the relevant literature. Included within each chapter are numerous verbatim excerpts from the transcripts of Focus Group #2 and the one-to-one interviews. The quotations are interwoven with references to research in higher education and literature specific to legal education. Providing the actual words of the participant in respect to key themes helped to illustrate the discussion of the research findings and education literature. In reading quotations the following guidelines apply:

> Focus Group #1 - Individual participants are not identified although if there is a direct quotation then quotation marks " " will indicate the phrase.
>
> Focus Group #2 and One-to-One Interviews - Participants are identified by pseudonyms used when there a direct quotation, indicated by quotation marks " " was made, or with reference to the summarized response of a specific participant. (i.e., "Mable")

CHAPTER 2

ELEMENTS THAT DEFINE A QUALITY LEGAL EDUCATION

INTRODUCTION

Quality in Higher Education:

Quality has been undeveloped as a concept in higher education and there is considerable uncertainty about how to define, or discern a quality educational "product." (Yorke:1992) When higher education institutions were examined in the United Kingdom, quality was defined as, "... the totality of features and characteristics of a product or service that bear on its ability to satisfy stated or implied needs ... (it is) the extent to which a program of study satisfies its customers' expectations." (p.91) The key feature in assessment was consideration of the expectations of the consumer. This has been a fundamental tenet of the literature on quality that the customer has a right to set standards.

Unfortunately this does not resolve the issue in higher education as it is not readily apparent who the customer of higher education is. Yet, the answer to this question has serious ramifications for the way that quality is defined. As was indicated in Chapter 1, there are three primary groups who are perceived as customers of legal education. First, the members of the profession as represented by the Law Society. Second, all members of Canadian society, who as a whole have a legitimate interest in the outcome of the legal education that law students receive. Finally the law students themselves are the third group and they are the most directly effected customers of legal education. In another sense they are also a "product" of the higher education system in that they are transformed by the education they receive. (Yorke:1992)

Information in this study was gathered from one of the affected groups of consumers - lawyers. Participants were encouraged, however, to adopt a dual perspective when responding to questions about their own legal education experience. They were to provide their perceptions as former law students, yet in the context of their current situation as a practicing lawyers. By viewing the law school education process as it had been experienced by law students, yet canvassing this information from lawyers in practice, it was possible to access two of the three "client" groups. It was beyond the scope of this research to consider the views of the third client group - the general public - in respect to the pre-professional education of lawyers.

Aims and Objectives - The Purpose of Law School

In order to explore the quality of the legal education experience it was important to first establish what the former students had expected law school to be. This was accomplished by identifying; a) why the participant choose to go to law school; and 2) what the participant had thought they would or should accomplish during the three year program.

DEVELOPMENT OF THE QUESTIONS

The over-all purpose of law school was discussed in Focus Group #1. Comments made by participants suggested that the law school experience had not matched their expectations. Two questions found useful as probes in Focus Group #1 and used again in Focus Group #2 and the one-to-one interviews to explore the dichotomy of experience versus expectations of participants were:

Question 1: Why did you decide to attend Law School?

Question 2: What do you think is the purpose of Law School?

A second issue that arose from Focus Group #1 was the fact that members of the group were not always talking *ad idem*. Often the same terms were used by the participants but it was clear that these terms were used to describe very different experiences. The participants in Focus Group #1 came from law schools across Canada and had graduated over a twenty year period. Students from the late 1970's and early 1980's generally agreed that law school should be more practical. They were basing this belief upon the curriculum of their law school years which in most cases was entirely academic in nature. A few of the more recent graduates (1990's) commented that law school should be less practice oriented, however, they had generally experienced a much larger practical component which often included the option of clinical experience.

Two additional questions were therefore developed to provide a more accurate understanding of a participant's comments on their law school experiences. The exploratory questions were open-ended and invited each participant to describe critical elements of a quality legal education. The two questions were:

Question 3:	What do you think is a necessary part of an excellent legal education?
Question 4:	What was the most important thing you came away from Law School with?

In order to define or assess quality in legal education, it was imperative to first determine the purposes or aims of a law school education. Participants in Focus Group #1 were allowed to explore this issue - the purpose of law school - with very little structure or direction. The discussion was animated and often vacillated between the actual purpose of the law school education as it was experienced, as opposed to the ideal outcomes that participants expressed. The diversity of the opinions reflected a very similar and ongoing debate in the broader legal education community.

It was the opinion of most Focus Group #1 members that the purpose of law school was to prepare students for the practice of law. The opposite view was also expressed by a minority who argued that law schools were not, and should not be tied to the "training" of future lawyers. Only one person was so extreme as to insist that there be NO practical application whatsoever. He supported this view by insisting that a law degree, as part of the university general education, should simply be completely academic in nature. Other participants, however, agreed that a law degree should prepare a student, at least in part, for their future role as a lawyer. There were divergent opinions on what aspects of "lawyering" should be included in the law school curriculum and whether the focus should be primarily academic or practical.

Participants in Focus Group #1 unanimously recognized that the majority of students do go to law school with the intention of becoming practicing lawyers. Further it was agreed that for most students law school provided the necessary educational foundation for the individual to begin their professional training to become a lawyer. Beyond this, however, there was a broad range of opinions as to what law schools should do in order to best prepare students to enter the practice of law. Most of the discussion focused on the issue of the appropriate mix of theoretical and practical courses and also on the means that instructors choose to meet both the espoused and unintentional objectives of a law school education.

When Focus Group #1 discussed their law school experiences, they frequently used the expression, "I learned to think like a lawyer." It seemed that this was viewed as one of the main objectives or outcomes of a proper legal education. It was apparent, however, that members of the group were not able to define this phrase with any clarity. In fact, they were somewhat surprised when asked how law school achieved this objective.

Although participants disagreed on whether "thinking like a lawyer" was a positive attribute (i.e., a necessary skill-set of a lawyer) or whether they perceived it much more negatively (i.e., as a narrow and limited view of the world) it was apparently critical terminology in describing the law school experience. In fact, no matter how the individual defined or interpreted the phrase, it seemed to correlate directly to the participant's perception of the predominant or over-all outcome of a legal education. When the phrase, "learning to think like a lawyer" was used, it seemed to be a short-hand way of expressing the educational process that the law student experienced in becoming a lawyer. In order to use the words of the participants and explore this concept further it was important to ask Question 5 and to use probes to uncover the role that law school played in developing this attribute or skill-set. The question and probes developed to gather this information were:

Question 5: What does the phrase "to think like a lawyer" mean to you?

Probe: Did Law School teach you to do this?

Probe: How does Law School teach you to "think like a lawyer"?

Responses to Question 5 in respect to "thinking like a lawyer" compiled similar responses from Focus Group #2 and the one-to-one interviews as had been expressed in Focus Group #1. All answers were closely associated with the participants overall perception of the purpose of law school.

PARTICIPANT RESPONSES & ANALYSIS:

1) Why did you decide to attend Law School?

Focus Group #2 provided a mixed response to the first question. There were as many different motives for attending law school as there were participants. Reasons for going to law school that were not associated directly with becoming a lawyer included: general interest; curiosity; and one person ("Jake") who stated that he simply went to law school because; "I thought it might be interesting and I really had nothing better to do at the time."

Many did express that their primary goal was to become a lawyer. Other factors which influenced individuals in their decision to attend law school included:

> 1) having family members who were lawyers - ("Dawn") " ... it is a family business, if I wanted a piece of it, I had to be a lawyer ..."; and
> 2) altruistic motives such as those expressed by ("Mary") who indicated that she desired, "... to help people ..." and by ("Joan") who stated that she "... went to law school to contribute more substantially to social justice".

Ironically, one participant ("Brad") who had not wanted to become a practicing lawyer when he chose to go to law school, stated that he "... failed miserably in that goal because I am a lawyer". In contrast, another participant, "Ella" who stated that she had wanted to be a lawyer since she was 12 years old, had chosen since graduation to leave the practice of law. In fact later in the session she claimed that she would not even recommend that someone like herself go to law school. "Don't go. Do something else! ... I don't think it was worth the time and the effort. I don't think I learned anything I couldn't have learned other places, by going to law school. And I found out at the end that I didn't want to be a lawyer." According to this viewpoint, unless the individual actually practiced as a lawyer upon graduation, a law school education was not an experience to be recommended.

The participants were never asked directly whether they attended law school with the aim of becoming a lawyer. The actual question was open-ended: "Why did you decide to attend law school?" In response, participants often gave more than one reason. The statements made, however, often assumed that becoming a lawyer was a given so it was unnecessary to include this in the response. For example, ("Mary") had stated that she "... wanted to help people". Presumably she meant as a lawyer, but this was not made explicit in her answer.

Based on the majority of responses, it seemed that most of the participants expected to become lawyers and enter active practice following law school. In 1996, "The Canadian Lawyer" magazine published the results of a cross-Canada survey of law school graduates (1992-1995). One of the questions in the Canadian Lawyer survey was whether it was the role of law school to prepare students for a career as a practicing lawyer. Black (1996) reported that "Just over 72 percent said "yes," (which was) a sharp jump over (the) 1991 response rate of 54 percent." (p.16). In the most recent (1997) Survey, Black (1997) stated that the figure has again increased, with 77 percent answering in the affirmative. Unfortunately, only a bare majority indicated that law schools in Canada succeeded in that goal and "... 47 percent rendered an emphatic "no" according to the survey. (p.18)

In this research study, most of the participants also indicated that they entered law school intending to become lawyers and they had expected that a legal education would prepare them for the profession of law. Whether or not this is part of an increasing trend noted by Black (1996) in the Canadian Lawyer survey, the numbers of students who expected a law degree program to be in the nature of pre-professional training was certainly significant. This commentary of respondents in the cross-Canada surveys and the participants in this study reflected not only the perception of graduates in respect to the aims and objectives of law school but also their assessment of whether the law school met the needs of the student.
Black (1997) stated in her report that:

> ... (the) ongoing debate in law schools is whether they should be more like trade schools. Most graduates stick to the view that law schools should aim to be vocational institutions rather than purely academic ivory towers ... As we noted last year, many graduates felt law schools have failed to find an appropriate mix between the practical skills that should be taught and the black-letter theory of law. (p.18)

Law schools must decide if they will accommodate student expectations in determining the purpose of a legal education. In setting the aims and objectives, the law school must consider whether these should be consumer-driven. If yes, then the key consumers of legal education must be identified. Is it the public who need legal services? Is it the Law Societies as representatives of the profession? Or is it the student who experiences directly the consequences of the choices made about the purpose of a legal education? The law faculty of the future may have to address the needs and expectations of all three of these client groups.

Determining the proper aims and objectives of legal education in Canada has been the subject of ongoing debate. This issue has not been settled and now the additional factor of a rapidly changing world must be taken into account when answering this question. The perceptions of the student body simply reflect, in part, the current economic climate and demands that higher education be relevant in terms of developing marketable skills in a highly competitive job market.

Renner (1995) cautioned that a common mistake of higher education is to prefer theoretical over practical education. According to Renner (1995) this must be remedied in these demanding times, if a university education is to remain a desirable option.

> Higher education continues to separate learning from living at the very time when the rate of social, cultural and technological change makes it even more important than ever to reduce such temporal delays between learning and living.
>
> Education implies learning how to think in order to be able to do. Training implies learning how to do in order to be able to participate, and belong, and through this process learning to think. Change is happening too fast for learning to be for tomorrow; it must be for now if it is to reach the now generation. (p.100)

"Quality" even at the academic level in university must in part be measured by the needs and expectations of students in the context of the greater society according to Mayhew et.al.(1990) and Green (1994). Very few participants answered that law was a choice based solely upon altruistic or educational aims. It was recognized as a professional degree and the desire to attend law school was generally motivated, at least in part, by the acquisition of a professional designation following graduation. While only a couple of participants expressed the strictly pragmatic view of "Dennis" that law school should have no pretensions beyond being a glorified trade school, there were several individuals who criticized the fact that their legal education experience had been too theoretical and had not prepared them adequately for the practice of law.

Table 2-1 which follows provides a break-down of reasons for attending law school comparing the responses of participants in this study with the 1996 cross-Canada survey of law graduates (1992-1995) conducted by the Canadian Lawyer magazine. It is important to note that both the Canadian Lawyer survey and the one-to-one interviews allowed respondents to give more than one reason for attending law school so percentage (%) numbers do not total 100%. No statistics are provided for Focus Group #1 as participants simply discussed generally their reasons for attending law school. Focus Group #2 participants each gave one response for attending law school which are recorded below.

TABLE 2-1. Responses to Question: Why did you go to law school?

COMPARISON WITH RESPONSES FROM FOCUS GROUP #2:

(Black:1996:23) Survey Results **(Davis:1996) Participants**

Canadian Lawyer Survey (1996)		Focus Group "2" - Number of Participants	
Long-term interest in law:	33%	Long Term Interest:	(1)
Intellectual appeal:	31%	General interest:	(3)
Financial rewards:	23%		
Prestige:	18%		
Chosen by default:	14%	Chosen by default:	(1)
Job security:	12%		
Family influence:	8%	Family influence:	(1)
Enhance a non-legal career:	6%	Career move:	(1)
		To help people:	(2)

TABLE 2-2. Responses to Question: Why did you go to law school?

COMPARISON WITH RESPONSES FROM ONE-TO-ONE INTERVIEWS:

(Black:1996:23) Survey Results **(Davis:1996) Participants**

Canadian Lawyer Survey (1996)		20 One-to-One Interviews - Number and Percentage of Participants	
Long-term interest in law:	33%	Long-term interest:	10% (2)
Intellectual appeal:	31%	Intellectual appeal:	25% (5)
		Specific legal area:	15% (3)
		General interest:	5% (1)
Financial rewards:	23%	Job Opportunities:	10% (2)
Prestige:	18%	Honourable career:	5% (1)
Chosen by default:	14%	Chosen by default:	10% (2)

Canadian Lawyer Survey (1996) **Table 2.2 (cont.)**	**20 One-to-One Interviews - Number and Percentage of Participants (cont.)**
Job security: 12%	
Family influence: 8%	Family influence: 15% (3)
Enhance a non-legal career:6%	Career move: 5% (1)
	To help people: 20% (4)

Table 2.1 and 2.2 illustrates many similarities between the types of responses generated by the two studies. One notable difference was the number of participants who expressed a long-term interest in law. A much higher percentage is reflected in the cross-Canada survey. Possibly this included numbers relating to a significant category that was missing from the Canadian Lawyer survey.

A number of participants in the one-to-one interviews and the Focus Group choose to attend law school in order to "help people". This was the second largest number of responses in the study to the question - Why did you attend law school? As there were no recorded responses of this nature in the cross-Canada study, it is likely that it was simply not an option that respondents could select in the multiple choice format of that survey. This motivation of students suggests that while participants are anxious for law school to prepare them for a career in law, they may not necessarily be motivated by strictly monetary concerns. In fact, the responses suggest that law schools needs to address the practical skills within the curriculum in order to provide students with the means of fulfilling dreams which are just as likely to be altruistic in nature as driven by financial considerations.

Tyler (1949) in a seminal work on curriculum and instruction identified four fundamental questions which must be answered by any higher education institute in developing an educational program:

1. What educational purposes should the school seek to attain?

2. What educational experiences can be provided that are likely to attain these purposes?
3. How can these educational experiences be effectively organized?
4. How can we determine whether these purposes are being attained?

DeVries (1996) stated that the "... objectives-based approach to quality assessment has undergone several metamorphoses since Tyler in 1950 [sic] advanced the idea that objectives should be specified in behavioral terms." (p.193) Yet these principles are still useful in setting standards for a quality education. By addressing the first question, in particular, the law faculty could help in identifying the governing aim of a quality law school education.

Failure to clearly define the purpose of an educational program is a serious yet common problem. This issue was particularly evident in legal education where identifying a common ground in terms of aims and objectives has become an area fraught with turf-wars and strongly divergent opinions on the purpose of a law school education. However, simply ignoring these issues means that the law school flounders without the guidance that has been identified as necessary to ensure a quality education experience. In the words of Tyler (1949) "... if an educational program is to be planned and if efforts for continued improvement are to be made, it is very necessary to have some conception of the goals that are being aimed at." (p.3)

Tyler (1949) wisely recognized that "... in the final analysis objectives are matters of choice, and they must therefore be the considered value judgments of those responsible for the school." (p.4) In determining the guiding values, however, Tyler stressed how important studies of learners can be as a source of educational objectives. The objectives must be considered in terms of student "needs" recognizing identifiable gaps in knowledge, attitudes and skills between desired or acceptable norms and actual behaviours and attitudes of students. While some have criticized that defining the aims and objectives of legal education would diminish the ability of the law school to teach intangible skills and sophisticated theory, others have recognized that "... (t)he purpose of the objectives is not to limit the educational process but to define it. Students are entitled to know what the teacher expects." (Rayson & Tyree:1991:p.255)

Participant responses to the following question helped to identify their perceptions on the objectives of law school. The comments of participants provided insight to the reality of the law school experience in terms of what individuals had thought the requisite objectives of law school were. In addition, many remarked on the expectations and "ideals" they held as students when they entered law school concerning what they had thought "should" have been the aims and objectives of the law school.

2) What do you think is the purpose of Law School?

According to Focus Group #1 the primary purpose of law school was to train students to become lawyers. The participants of Focus Group #1 also pointed out that unfortunately this "purpose" may not be shared by many academic instructors particularly those who had never practiced law.

While participants identified that the purpose of law school was to prepare students to become lawyers, it was generally agreed that the law school's performance in this respect was mixed. Law school did fulfil a valuable role in legal education but it did not "prepare" graduates for the day to day practice of law. In Focus Group #2, "Ella" stated that "... I still felt when I left Law School that I hadn't been prepared for practice". "Mary" responded to this statement by saying that,

> I think Law School prepares you to practice law the way elementary school prepares you for high school ... there's a big piece that's missing in the middle that you sort of have to sort out on you own ... after you graduate.

Most participants in Focus Group #2 agreed that this was an accurate assessment of the situation. Law school gives some of the knowledge and skill-set to become a lawyer but it does not complete the education process.

The following Table 2.3 sets out the summarized responses of participants in the one-to-one interviews regarding the purpose of law school from two perspectives. Both perspectives are included because one of the interesting outcomes of this question was the fact that participants often responded by enquiring first whether they should answer in terms of: What the purpose of law school "IS" or "What the purpose of law school "Should Be". In these situations, participants were encouraged to give both responses.

NOTE: Where participants were speaking of what they would like to see in terms of aims and objectives the "Should Be" responses are noted in *italics*.

TABLE 2.3 - Summarized responses from one-to-one interview participants to the question: "What do you think is the purpose of law school?"

Name	Purpose of Law School - "IS" - *"SHOULD BE"*
Heather	Teaches a way of thinking which is unique to law school. Provides grounding in core subjects and legal analysis.
Peggy	Tends to get students ready for the business world. Students simply want to make money. *Thought law school would be a general education directed at teaching people to think for themselves.*
Brian	There are two goals that are in conflict: 1) providing a general education which continues the liberal Arts tradition; and 2) training those students who will enter the profession.
Peter	Law school is a trade school and a delay in entering the "real" world. *Practical skills are necessary and interaction with practitioners should be included.*

Table 2.3	Purpose of Law School - "IS" - *"SHOULD BE"* (cont.)
Richard	Teaches a way of thinking. Teaches a body of knowledge. Not clear whether purpose is to produce lawyers or academics. *Thought law school would teach students to be lawyers.*
Victor	Teaches about law and to think like a lawyer.
Casey	Law school is training for hierarchy - basically setting up a rationale for hierarchies and calling them meritocracies. *Lawyers perform a "non-function" in society. The time in law school would be better spent educating people on the types of matters that bring people into dispute and learning how to mediate rather than simply learning about imposing "solutions" on people in the present judicial system.*
Janet	Provides a general education in every area of law. Teaches the ratio of many cases - simply memorization and regurgitation of basic law concepts. *Thought the purpose was to teach students how to be lawyers. It should teach you to be open-mined, use analysis & advocate - seeing both sides of an issue. Should also focus on people-skills.*
Penny	Teaches people to think like lawyers. What law is/how it works and how disputes are settled.
Benjamin	Prepares you to be a lawyer. You come out of law with certain thought processes, a general understanding of the law and it's application in the modern world.
Dennis	Law school is a rating system, a screening device with an intellectual veneer. It restricts the number of people and the type of people who will graduate and become lawyers. *Should be shorter (1 year) trade program to learn the basics, the "mechanics" of law.*
Jonathan	Provides a basic knowledge in all areas of law. Abstract thinking, context of law and theoretical under-pinnings are also part of law schools purpose. *Should also give a sense of what lawyering will be like and some career focus.*
Raymond	Teaches a way of thinking - "Brainwashing" The necessary background in substantive law is accomplished in first year. Too much time is spent on arcane knowledge. *Should be shorter (2 years) and more practical.*

Table 2.3	Purpose of Law School - "IS" - *"SHOULD BE"* (cont.)
Beatrice	Students learned to lose respect for future clients and because law school itself is so competitive, it is difficult to create ethical and empathetic lawyers. Majority of students ended up believing in a type of "survival of the fittest" world. *Law school should produce a lawyer who not only appreciates the power of law over peoples lives but is also able to use the law for the betterment of society.*
Lynne	Provides legal background and an approach to the law. The basic building blocks. How to think as opposed to how to practice. The option of practical courses are available.
Mable	To think in a certain way. *Should be more practical because most people expect to be lawyers.*
Natalie	Should be academic orientation and not too concerned with practical. Possibly in the third year offer practical component.
Charles	Trains people to be lawyers, at least in part. How to analyze issues and start thinking like lawyers. Provides basic legal background.
George	*Thought the purpose of law school was to train students to be lawyers.* Now think purpose of law school is provide a broad back-ground for many careers. Teaches an analytical way of thinking.
Timothy	Trained students to think (yet also stifled their creativity). It is a trade school despite what people say because most students become lawyers, but it's very academic and not very practical in orientation.

The participants in the one-to-one interviews basically identified three key purposes of law school:

1) teaches a certain way of thinking;
2) covers legal subject matter through substantive law courses; and
3) prepares students for the practice of law.

The majority of participants (eleven) perceived that the primary role of the university was to teach a certain way of thinking. This was often referred to as the ability to "think like a lawyer" and included the skill of legal analysis. The other two purposes were given equal recognition. Seven participants identified that law school teaches substantive law and provides basic legal knowledge in core subjects. Law school was also seen as having a role in preparing students for practice although the specifics of how this was done were varied and included references to the acquisition of analytical skills and knowledge of the law which were both part of the first two categories.

Of the ten interview participants who chose to consider what they felt the purpose of law school "should be" seven felt that law school should be more oriented to teaching students about the practice of law. This ranged from learning the basics through to more interaction with practitioners and the opportunity to learn and practice specific skills. Only one participant felt that law school should be more academic and have a less practical orientation. Black (1997) related similar quotations from her own study, including the following, "Law schools should train lawyers to practice law, serve their clients and earn a living". (p.18)

Participants did not go so far as to suggest that the role of law school should simply be the preparation of students for the day to day practice of law. In Focus Group #1 there was strong sense that it was not enough to teach practice-oriented courses only. It was considered necessary to include the philosophical underpinnings of law in a quality legal education. The educator should provide a broad context to the subject matter and not present only those legal principles and skills required in the practice of law. Although the group recognized that the "average" student may not see this as being relevant at the time of instruction, in retrospect most participants in Focus Group #1 agreed that it was an important part of their legal education and should be considered as an essential purpose of law school.

Focus Group #1 participants recognized that law school must provide basic grounding in substantive law, with a primary focus on analytical skills to prepare students for practice.

Focus Group #2 participants agreed that the purpose of law school was to teach general legal principles and provide an over-view of the key areas of substantive law. They also identified that law school plays a role in affecting significant behavioral change in respect to attitudes of the students. In the words of "Mary", "... there is also a certain element of socialization and teaching you to fit into a certain mind set, to have a certain outlook ... when you graduate."

Other issues identified in the discussion on the purposes of law school included:

1) case law method and over-emphasis on litigation;
2) narrow focus of law school; and
3) image of success as defined by large firms and corporate mentality.

Case law method and the over-emphasis on litigation

Substantive law was taught primarily through the analysis of case law. Focus Group #1 indicated that there should have been more emphasis on alternate dispute resolution. This would have included negotiation, settlement and other aspects of "lawyering", outside of a strictly adversarial or litigation focus. Participants in Focus Group #2 and in the one-to-one interviews agreed that most courses were taught through the case law method, simply reviewing the written decisions judges make at the end of the litigation process. Over-reliance on the case law method of instruction was seen as a limitation by some participants because it does not reflect the actual practice of law. In practice most cases settle before trial and litigated cases are the exception rather than the rule.

The underlying concern with the case method was based upon two premises:

1) that law school should give a more accurate portrayal of what occurs in practice. If this was identified as one of the aims of law school then courses should be developed accordingly, with more emphasis on skills, such as lawyer-client communications, negotiations and drafting; and

2) the teaching of substantive law should incorporate other forms of dispute resolution and not simply rely solely on the study of case law in a subject area. An over-emphasis on teaching case law may foster the use of adversarial problem solving approaches upon graduation, including an over-reliance upon the judicial system.

Narrow focus of law school

Many participants in Focus Group #1 expressed disappointment with law school as an educational experience. There was a general sense that law school was much less enjoyable than undergrad studies. In fact, some felt very limited or stifled. One participant indicated that it killed all of his creativity. Another participant observed, "Overall (I was) disappointed ... (I) did not like how focused and narrow law school is." Other participants also referred to legal education as being less enjoyable than their under-graduate program and more limited in approach. "Brad" believed that this stemmed from the teaching style adopted by law professors.

> Well I think with the exception of perhaps one or two courses in jurisprudence you are never taught to challenge the fundamental underpinnings ... (it was) "Here it is as found - learn it and write it down!" whereas I think in an Arts background you challenge the fundamental underpinnings.

It was interesting to note that participants who found law school narrow in focus and less fulfilling than their previous university degree were generally those who had an Arts background. In contrast participants who came from a Business or Commerce background tended to find that law school was very similar to their undergraduate degree or at least equivalent in terms of their satisfaction with the learning experience.

Image of "success" defined by large firms and "corporate mentality"

One issue perceived by Focus Group #1 participants was that law school either overtly, or covertly supported the underlying premise that the "Big firm is the way to go." Or in the words of one participant, "Law school focuses on big-firm mentality not ... man in the street law." Participants suggested that this might stem from the study of "cutting edge" case law at the Appeal Court level, which was primarily litigated by larger firms. Other participants felt that the big firm emphasis came from an environment which fostered the important influence of the larger firms on the law faculty. This included, sponsorship of social functions such as wine and cheese parties where the students with the best marks were veted. Also noted were the donations made from large firms to the law faculty and funding provided through sponsorship of prizes or scholarships for students as well as the involvement of faculty instructors on contracts of employment to downtown law firms. All of these factors added to the presence of the large firm influence. The underlying message perceived by many students was that large firms are a preferable articling experience. This also influenced the drive for high marks, competition with fellow-students for limited positions available at these firms and an over-emphasis on corporate-commercial areas of law.

The law school should carefully consider the leverage that large firms have and examine how this impacts the quality of the education experience. Where possible, the law faculty should attempt to counteract the more negative repercussions this influence has on students. There was a perceived need to de-emphasize the tendency to promote the big law firm as being the best or only option upon graduation. Cane (1981) recognized that,

> The law school cannot be expected to change social reality, but it can be expected to remember that it has a unique charge in our society: to train students for the practice of law, a public profession. No other institution serves that function ... as long as a single model dominates legal education, students will continue to learn corporate jobs not only pay the best, but they are the only ones which deal with "interesting" legal problems. Few students will develop the tools or the inclination to look beyond the routine aspects of providing legal services to the poor and middle class." (p.232).

3) What was the most important thing you came away from Law School with?

Analytical Skills:

The majority of Focus Group #2 participants identified analytical skills as being the most important thing that they acquired in law school. Not only was it the most common response, but it seemed to confirm that the focus of law school was primarily upon the teaching of these skills. It was perceived by participants as being a basic building block that was both fundamental to success in law school and essential for the day to day practice of law.

Accreditation:

"Having the right to article" ("Mary") or the right to practice, or acquiring the law degree were also aspects of law school that were identified as being "most" significant. While some viewed the degree as an achievement in and of itself, other participants saw it simply as another "stepping stone" to the final phase of the educational process of becoming a lawyer. Finally there were those who viewed this process of accreditation with mixed feelings. "Joan", in discussing the purpose of law school, commented that,

> At the risk of sounding totally cynical, I think one of the aims of law school, as it was when we went, was to weed out a certain percentage of the population. In other words, present certain hurdles that would be very difficult to jump ... so that fewer people were practicing."

Dennis was also critical about what a law degree means and categorized it as a "screening device." He perceived that the hurdles erected by the law schools were not only exclusionary but they were also directed at certain groups in society. In his view it was not based on merit. Rather it was the individual's economic and social status that enabled a certain class or type of person to successfully complete a law degree. "Dennis" contended that,

> ... (it is a) screening technique to make sure that only people who can afford to be out on their own for three years with no visible means of support can go! ... if you want it to (continue to) restrict the "class" of people that are entering the profession, then leave things as they are."

The perspective expressed by "Dennis", was illustrative of similar criticism contained in recent legal education literature. In a report on *Equality in Legal Education*, prepared by a Special Advisory Committee to the Canadian Association of Law Teachers, (Alvi et.al.:1991) the Committee stated that there was strong justification for an expanded "concept of merit" in determining who should be admitted to law school:

> Admissions processes for Canadian law schools are discriminatory. they are primarily numerical, based on pre-law grades and performance on Law School Admission Tests. This concentration ... favours a certain profile of student, particularly those with the support, both personal and financial, that enables them (to) obtain the credentials of law school admission by performing well in the course of secondary and post-secondary education.
>
> This regime tends to discriminate against single parents (usually women) and mature students, as well as students from communities who for reasons of systemic economic and social disadvantage have not traditionally been participants in university-oriented career streams. (p.15)

According to the Committee (Alvi et.al.:1991) the narrow measures of merit that currently control legal education are the result of,

> ... (a) default of a clear set of pedagogical goals directed to the preparation of students for the socially responsible and professionally competent profession of law. If legal education were clear about its own objectives it would be able to develop evaluation mechanisms and pedagogical instruments that work against the inherent meritocratic assumptions of society, not feed on them. It would be able to create a law school experience that is more humane and that is more realistically oriented to the preparation of lawyers. (p.19)

The Committee continued by finding that the excessively competitive atmosphere in law school was the result of the current admissions, evaluation and placement processes undertaken by the faculty. Thus competition created an unhealthy environment for students particularly those who, "... do not share the perspectives, the aspirations and the abilities of the stereotypical law student." (p.25)

Social:

Education is a social activity and participants were quick to admit that personal connections were a key aspect of the learning experience. The ability to contribute to society was another factor that contributed to the quality of pre-professional education which is consistent with the espoused aims of the participants who wanted to help others and contribute to society.

Friendships: "Heather" stated "I made some very good friendships and I'm still friends with a number of classmates." Another participant, "Raymond" contrasted this aspect of his experience in law school with his undergraduate degree,

> Well, obviously friends. It's interesting because ... most of the friends that I've made in law school have actually stuck around, ... Most of the friends I made in under-grad haven't ..."

Many participants placed friendships as being more important or certainly on par with the acquisition of skills or knowledge acquired in law school. Two examples are:

1) "Brad" who asserted that,

> ... the analytical skills are the center and I think the other critical element is the peer group that you come out with the sense that you graduate with the class and they are people you've spent a number of years with ... and that's the group that I feel most comfortable practicing with ... in that I know them the best."; and

2) "Kent" who said that,

> I think the most important thing from an educational perspective that I came away with were the principles that I learned in first year ... and the second thing is the relationships. ...I feel completely comfortable ... I feel I could phone anybody now, nine years after school ..."

b) Contribution to Society: Another aspect of law school that was identified by several participants as being particularly rewarding and an important educational experience at law school was volunteering with Student Legal Aid (SLA). This provided an opportunity to help people, to learn by doing and in the process to contribute to society. This particular experience was referred to many times by participants and played a central role in their informal learning experiences.

As public interest law per se has seldom been included in the traditional legal curriculum, student involvement on a voluntary basis with SLA has helped in part to address this need. It has been recommended, however, that law schools take a greater role in expanding the exposure to public service law and introducing students to their obligation, as members of the legal profession, to community service. According to Alvi et. al. (1991):

> Legal education currently places too much attention on a narrow range of professional roles. Law schools train students to be practitioners, primarily serving individual and corporate interests within the context of a conventional law firm (typically in large partnerships), or to be law professors. There is insufficient emphasis on public service or community service law. (p.27)

Note: Participant comments in respect to SLA will be covered in greater detail in Chapter 4.

4) What does the phrase, "to think like a lawyer" mean to you?

> The study of law is something new and unfamiliar to most of you - unlike any schooling you have ever been through before ... You come in here with a skull full of mush. You leave thinking like a lawyer.
>
> Professor Kingsfield
> (Paper Chase - 20th Century-Fox, 1973)

This quotation about the study of law at Harvard reflects the almost archetypal ideal of a law school education. In fact, articles about the teaching approach taken by Kingsfield, who is actually a fictional character, have formed the basis of serious academic discussion - Kingsfield and Kennedy: Reappraising the Male Models of Law School Teaching (Hantzis:1988) Yet "fiction" reflects "fact" in this instance as most participants identified that the key purpose of law schools was to teach students to "think like a lawyer." There was generally a consensus that the legal education process had been successful if the graduate left law school thinking like a lawyer.

According to MacFarlane, (1985) the phrase, "to think like a lawyer" was familiar to most people in legal education.

> Learning to think like a lawyer is one of the more overt ways which students are socialized into the profession of law. The socialization process begins on the first day when the students are told openly and with pride on the part of the speaker (faculty or administration) that they will learn to think like lawyers and they will never be the same. (p.198)

A book entitled, "Thinking Like A Lawyer" was published in 1996 written by a professor at the Thomas Jefferson School of Law (Vandevelde:1996) and it begins with the following definition;

> The phrase "to think like a lawyer" encapsulates a way of thinking that is characterized by both the goal pursued and the methods used ... The goal of legal thought ... (is) to identify the rights and duties that exist between particular individuals or entities under a given set of circumstances." (p.1)

There was a clear difference between "lay thought" and legal thought according to Vandevelde (1996) and while lawyers may no longer consciously remember each step of their thinking process, once they learn this new approach to thinking they often refer to the unique way that they receive and process information and describe it in a kind of "shorthand." Thus the use of the phrase learning to "think like a lawyer" in the legal education context:

> ... thinking like a lawyer essentially requires beginning with a factual situation and, through ... (legal analysis) arriving at a conclusion about the rights and duties of the persons or entities involved in the situation ... (Vandevelde:1996:2)

The ability to "think like a lawyer" has been most closely associated with the skill of analysis. Law students are taught this through the application of alternate and often conflicting legal rules considered in a variety of fact situations and through the comparison of specific cases. Analytic ability was the one product which legal education has claimed it can deliver and there was generally not much debate on this point. Most participants included legal analysis in their definition of the phrase and they confirmed that law school taught legal analysis.

When Focus Group #1 participants used this phrase, the group members were asked, "What do you mean by the expression, "to think like a lawyer?" Participants stated that it meant:

1) to be analytical; and
2) to tear things apart and analyze and apply key principles.

Members of Focus Group #2 were also asked to identify what this phrase meant to them, but two probes were added so that the methods used to achieve this special way of thinking could be identified:

Probe:	Did law school teach you this?
Probe:	How does law school teach you to, "think like a lawyer?"

The probes helped to connect this common phrase to the educational process that occurs in law school. When participants referred to the purpose of a law school education, or when they identified what they took away from law school, almost all referred to a different mind set which seemed to encompass more than simply acquiring analytic skills in thinking. In fact, it was occasionally referred to positively as a socialization process or more negatively as a type of brain-washing. ("Sara")

In Focus Group #2, it was identified as thinking analytically as well as being able to strip any emotion from consideration of the facts when attempting to solve problems. "Sara" reflected that:

> In part, I think, "thinking like a lawyer" is being detached ... (being) emotional or supportive ... that is not the best way to respond to a

> client. That is why they come to you. They want a detached, analytic, view of the problem broken down into different categories of legal principles ...

Participants in Focus Group #2 also discussed whether this way of thinking was something that you could control or "turn off." The majority concluded "No" as indicated by the following two comments;

> 1) "Brad": "... (you) can't switch it off at the end of the day and I continue to cross-examine my family and friends ... after awhile they say enough with the questions! - You just can't turn it off!"
>
> 2) "Ella" in agreement stated: "I think that's so true. Even when you've stopped practicing for some period of time."

It was apparent from the comment made by "Ella" that learning to think in this manner seemed to become a permanent part of a person's character. It did not seem to diminish over time even when the individual was no longer involved in the practice of law. It was a difference that was not just experienced by the individual but was also recognized by others as being unique to the profession of law.

"Dawn" was no longer practicing law and had for several years worked in an alternate career. Yet she found that when she talked to strangers as part of her job they sensed that she had legal training:

> ... after about 3 minutes on the phone the question would be - "Are you a lawyer? You sound like one!" - so it does, it changes the way you look at things.

"Greg" agreed and went on to say that while it was true that other professions use similar skills of analysis and questioning, there was still something unique about the way lawyers view the world which has been confirmed by independent observers:

> ... it is an impression that people have, because as we have said, people can identify that you are a lawyer, from the way that you talk to them.

He pondered later in the session whether that was because, "As lawyers we may completely ignore the emotional content of the situation ... I hope that is not the way we practice but (it is) the way you are taught to think in law school ...".

In response to the question on how law school taught them to "think like a lawyer", Focus Group #2 participants were unanimous in their belief that it was the pressure of 100% final exams. Law school teaches you to "think like a lawyer" - "By flunking you if you don't!" according to "Mary". "That's it, next question!" declared "Jake" indicating that "Mary's" response was the complete answer to this query. Participants in the one-to-one interviews had somewhat more to say about the issue of learning to think like a lawyer. As a rule they dealt less with the threat of exams and provided a broader perspective on the process of how law school actually accomplishes this objective. A summary of the responses of the participants in the one-to-one interviews are listed in Table 2.4.

Table 2.4: "To Think Like A Lawyer"

Summarized responses of the one-to-one interview participants to the question:

Question: **What does the phrase "To think like a lawyer" mean to you?**

Probe: **How does law school teach you to think like a lawyer?**

Name	Definition: To Think like a lawyer	How is this taught?
Heather	To think in shades of grey - not black and white. Able to argue both sides. Analytical.	Pre-disposed to think this way before law school. Learned through debating, mooting, listening to both sides and class discussion.
Peggy	Analytical thinking. Objective.	Reading cases and figuring out what was important in the cases.
Brian	Look for resolutions. Narrow thinking - need to avoid this. Giving clear advice.	Exam pressure. Through articling experience. Briefing cases and class discussion. Professor analyzing cases and the socratic method.

Table 2.4 (cont.)	To Think Like a Lawyer (Commentary)	How Is This Taught?
Peter	Procedures versus results. Focus on the consequences.	Focus on procedure and litigation.
Richard	Analyze. Critical Think about liability.	Analyzing cases. Professor discussing cases.
Victor	Dispassionate. Analytical. Code of conduct.	Reading, digesting and identifying principles of law. Discussion in class. Socratic method.
Casey	Learn the language and lexicon. Introduced to a male/rational/imperialistic philosophy. Try to pin down reality, truth and reason.	Through pedagogical approach taken in case method of teaching. Texts written by judges or lawyers and students are not exposed to critical perspective or texts written by non-lawyers.
Janet	Be broad-minded. Keep open-mind to suggestions - cannot adopt a narrow view.	Philosophy courses more instructive than law courses. Law school was black & white / actual practice is grey.
Penny	Always thinking of solutions.	Bombarded with cases and how disputes are handled.
Benjamin	Logical. Reasoned. Unbiased. Unemotional. Very objective context.	Reading cases. Analysis. Examine reasons for decision. Jurisprudence.
Dennis	Approach human situation by distilling facts relevant to a given court.	Lecture. Omitting all human elements. Reading cases.
Jonathan	Think analytically. Facts - cut to the heart Dispassionate and objective.	Too much emphasis on how to think like a lawyer in law school. Need to think in broader terms and remember emotional and social context. Law as an objective study is a fantasy.
Raymond	Being a litigator equals taking an adversarial approach.	Cases you read. Analyze end result (only tip of the ice-berg). Learning abstract concepts with no root in practical life.
Beatrice	"B-S" phrase - No one knows what it means or everyone has a different idea. To think analytically, sometimes too analytically without intuition or context about peoples problems.	Solving problems through analysis.
Lynne	Logical/analytical thinking. Able to boil down to basic problem.	Case Method
Mable	Organize absolutely everything and reduce to what is really important	Law students have pre-disposition. Build facts to support argument.

Table 2.4 (cont.)	To Think Like a Lawyer (Commentary)	How Is This Taught?
Natalie	To be able to see and argue both sides of an issue.	Lecture & discussion. Other points of view (i.e. criminal law)
Charles	Analyze problems - find solutions.	Predisposition of law students. Skill moulded by law school. Repetitiveness of examining cases and solutions.
George	Think analytically.	Case method/fact patterns. Analysis and problem solving. Socratic method and critical thinking.
Timothy	Ability to give advice & solve problems	Examination process - 100% finals.

5) How Was "Thinking Like A Lawyer" Taught at Law School?

The majority of participants in the one-to-one interviews indicated that the key method of teaching students to "think like lawyers" was the study of case law. The case method should include substantial student involvement through extensive class discussion according to McKeachie et.al. (1986):

> The case method, like other discussion methods, falls toward the unstructured end of (the) continuum of methods. The teacher's role in the case method is primarily to facilitate discussion - questioning, listening, challenging, encouraging analysis and problem solving, and proposing hypothetical situation to test the validity of generalizations. The student's task involves analysis of the case, distinguishing relevant from irrelevant details, and arriving at reasonable hypotheses or conclusions. (p.68)

The majority of participants confirmed that the case method was used in law school although some professors used only the lecture method. In those situations students learned primarily through reading and analyzing cases on their own and through following the legal reasoning of judges as it was presented in class. Discussion about cases in class or student debate which reviewed different perspectives of legal issues were specifically mentioned as very beneficial by five participants. The Socratic method which has been commonly associated with the review of case law was identified as being critical by only three participants. Finally, there were just two participants in the interviews who agreed with the participants of Focus Group #2 and identified 100% final examinations as being the necessary ingredient in teaching students to "think like a lawyer."

Of particular note are the three participants who indicated that they felt "thinking like a lawyer" was a predisposition that law students brought with them to law school. There has been some research literature in support, finding that certain types of people are attracted to law and are admitted to law school programs. (Alvi et. al:1991;Pearce Report:1987;Matas et.al.:1985) It may be appropriate, however, to conclude with the caution voiced by "Jonathan" that while law school did teach him to "think like a lawyer" - "... there is too much emphasis on that in law school."

SUMMARY

The objectives of any education program can be classified under the three broad headings: skills, knowledge and attitudes. All three types of objectives should be considered in the development of curriculum but this has been a concept that the law faculty, coming from a traditional liberal university perspective, has had limited success in achieving. Legal subjects are currently taught by concentrating on substantive knowledge and a limited skill-set (i.e. legal analysis). These are areas where law schools have excelled and the participants were generally in agreement that the law school demonstrated competency in achieving these objectives. But the law faculty should, according to participants, aim to teach more than current case law and the skill of legal analysis. As students, participants entered law school expecting to receive a broader education. One that would encompass a full-range of lawyering skills.

The recommendations of participants come at a time when law schools are subject to increasing internal and external pressures and the transformation of legal education has to take the following factors into account:

a) members of society are becoming more sophisticated regarding legal rights and demanding better legal services;

b) the university has experienced deceased funding at the same time as the demands for accountability have increased; and

c) graduates of law school have expressed disillusionment with law school and the practice of law as both have failed to measure up to their expectations.

These serious concerns can be addressed, in part, by considering the guidance of graduates. Providing a balance of practice and theory was a theme repeated many times by participants although their responses were generated from questions concerning various aspects of the legal education experience. It should be understood that a broader or more practical orientation need not transform the law faculty into a "trade" school. Nor does it simply refer to clinical experience although that should be available and encouraged for every student. Rather students expected that they would be exposed to a broad range of educational opportunities. This should include research, analysis and writing experience through to practical instruction in the law with the opportunity to interact with practicing lawyers.

Law schools should make efforts to set objectives that will foster the skills, knowledge and attitudes necessary to help the student serve "average" clients in the future. This can be done by combining theory and practice and providing opportunities for students to satisfy their altruistic motives for attending law school in terms of helping others in clinical settings. The following chapters will consider this theme in greater depth. These changes could be structured so as to have little impact in terms of increased cost for the law faculty yet by addressing the needs of students and society, a better quality legal education should result.

CHAPTER 3

TEACHING AND LEARNING DYNAMICS

> The aim of teaching is simple: it is to make student learning possible ... higher education will benefit if those who teach enquire into the effects of their activities on their students's learning ... changes in how we think about and experience teaching are crucial to improvements in higher education. (Ramsden:1992:p.5)

INTRODUCTION - "FORMAL" LEARNING EXPERIENCES

The quality of legal education was primarily judged by the students' assessment of the teaching-learning dynamic. There was a consensus amongst participants that both teaching and learning can and should be improved. There was also a clear connection between student learning in law school and the quality of instruction.

In this research study, it was important to listen to what participants had to say about their experiences as students. Comments were gathered about the elements of good teaching and the impact that different teaching styles and methods had upon personal learning. Participant experiences were a critical component in the consideration of how to improve teaching, and formal learning from the point of view of the student. Most participants found that good teaching encouraged high quality student learning and participants consistently identified the quality of instruction at law school as being an important part of a quality legal education.

Development of Questions

Focus Group #1 considered many aspects of a quality legal education but the majority of comments focused upon the formal learning experiences of law school which included classroom instruction and methods of evaluation. In order to reflect this emphasis several questions were developed which explored these themes further in Focus Group #2 and in the one-to-one interviews. In order not to narrow the focus of the study participants were initially asked simply to evaluate their law school experience. One of the initial questions was purposely broad and open-ended and this allowed participants to comment on any aspect of their legal education experience:

> **Question: What is your over-all assessment of your law school as an educational experience?**

In order to delve further into the teaching and learning experience a number of probes were developed. Participants were asked to give:

1) examples of effective teaching;
2) examples of effective learning strategies; and
3) further details on any other factors which influenced their experience of teaching and learning at law school.

Focus Group #1 had identified that a key tension or dilemma was the fact that while most students go to law school with the intention of learning how to practice law, the instructors tend to be academically oriented. Once identified as a factor which potentially influenced the learning experience, questions were developed to explore this issue further. First participants were asked if they had noticed any differences as students between instructors who were full-time academics and those instructors, generally practitioners, who are part-time sessional or adjunct instructors. The initial inquiry was kept purposely general so as not to influence the responses in any way. If the participant identified any differences then they were asked if they had a preference and encouraged to provide further information on their preferred orientation of instructor.

The educational developments considered to be part of a standard legal education were also considered important to include in the study. Hartwell & Hartwell (1990) in their observations of law school classrooms, noted that "Traditionally law professors use a Socratic approach to teach their students..." (p.509). As this method of instruction was identified in the literature on legal education as a method that had been developed and in use since 1870 to specifically teach law students (Teich:1986), it seemed appropriate to ask participants about their experiences with the Socratic method. The following question, which asked participants to consider their reactions to the use of this teaching method, was therefore developed:

> **Question: What was your experience with the "Socratic method" at law school?**

The Socratic method was not defined for participants when asking the question, however, only one participant appeared unsure of what this meant and stated that she had not experienced it during law school. Participants were also encouraged to discuss the other methods of instruction used in law school through the use of appropriate probes.

Participants in Focus Group #1 had spoken at length about the competition in law school and the key role that marks played. This led to a general discussion on systems of evaluation and particularly the impact of low marks upon students. Group members proposed that the strong, and often adverse, feelings about evaluation which law students experienced was due to the fact that all students who enter law school are used to receiving above-average to exceptional marks. One particularly stressful incident raised by a member of the group involved a student who was first verbally abusive, and then physically abusive, of an instructor who had given him a poor mark. While this was clearly an isolated and extreme incident, members of the group agreed that it was illustrative of the type of pressure that each one of them had felt in respect to competition for, and importance of, marks. It was therefore critical to include a question which elicited comments from participants about the marking system or methods of evaluation used at law school. A further probe was used to elicit the participants opinions on the legitimacy of the assessment methods utilized in accurately reflecting the quality of learning. The question and probe were:

Question: What comments do you have on the marking system and methods of evaluation used at law school?

Probe: Did marks accurately reflect your learning (in a particular course)?

Finally, as Focus Group #1 had referred to specific ways to improve the teaching and learning dynamics in law school it was thought to be important to give other participants a similar opportunity to reflect upon how their legal education experience could have been improved. An open-ended question was developed which concluded the review of the formal teaching and learning experiences in law school.

OVER-ALL ASSESSMENT OF TEACHING & LEARNING AT LAW SCHOOL

Most participants gave law school a fairly positive assessment. Several commented that it was either a "pretty good" or a "positive" experience. There were a few who found law school quite negative, however, and others who were non-committal. Drawing on the experience of the participants there was certainly room for improvement. The "Quality" paradigm was found to be useful and it provided guidance in analyzing the comments of participants.

"Total Quality" and the Improvement of Legal Education

Tzannes (1994), stated that business was far ahead of education in understanding the principles of the "Total Quality" Movement. Educators are only slowly becoming aware of the significance of the concepts such as Quality Assurance. Tzannes (1994:p.58) noted that,

> Quality assurance is sometimes confused with the concept of ... course evaluation, (however) Quality assurance goes much further ... Quality assurance is pro-active in that it establishes systems designed to prevent ... failure.

In respect to improving the systems of teaching and instruction, these terms were defined broadly and included many aspects of the professorial role as identified by participants. Consideration was given to the design of curricula, the choice of content and methods, the various types of teacher-student interactions, and the assessment of students.

Ultimately the words used to describe excellence or quality in higher education are of little consequence according to Conrad & Blackburn (1985) who found little difference between terms used. The key criterion was in the striving for higher standards no matter how defined.

> When it comes to the concepts of excellence and quality ... (the) two terms are essentially interchangeable. Like quality, excellence carries with it a dimension of style, not just an outstanding achievement but the manner in which the accomplishment is achieved. Both excellence and quality imply the highest standards and an unwillingness to settle for anything less than that which could be achieved. (p.287)

While the central focus of this study was to assess the law school experience from the perspective of "quality", participants did not suggest that law faculties were in any way unique with respect to the need for improvement. In fact, many participants commented upon recent changes which have significantly improved legal education.

Yet, one of the key principles of "Quality Assurance" which helped the Japanese achieve unprecedented business success was the objective of "continually improving" a system, no matter how successful it might be at present. There was no conception of a pre-existing limitation or ceiling which would limit efforts at self-study and improvement. According to Tzannes (1994 at p.58) the strength of the Japanese "Quality" program, was the eventual goal of *dantotsu*; the aim to become the "best of the best." The continuing need for re-examination and improvement was stressed. Therefore, while many aspects of legal education were perceived as positive, there were still several areas identified that law faculties could aim for improvement if the standard adopted was to become the "best of the best."

For example, three of the participants were non-committal in their response to an over-all evaluation of their law school experience. They stated that it was impossible to assess the experience without first establishing a defined purpose of law school. Without reiterating the discussion in Chapter Two, these participants indicated that law school had certainly not prepared them for the practice of law. Based on this criteria, which they suggested could be a legitimate standard, they would not have rated law school positively.

According to Diamond, M.D. (Gillers:1990) in a review of the psychological problems of law students, he found that law school often required an adjustment in student expectations or the individual would find that law school was a very disappointing experience. He observed that,

> The law student enters law school with the expectation that, in the space of three years, he will learn the substance of the law and that he will acquire a self-image of a lawyer. Inevitably, the student is disappointed and becomes frustrated and depressed. Depending upon his predisposition and temperament, he may blame himself, he may blame his school, or he may blame both. (p.63)

Participants provided support for Diamond's contention that disappointed expectations resulted in a more negative view of law school. "Dennis" and "Peggy" echoed an opinion voiced at Focus Group #1 when they stated that law school had been a "narrow" experience. Both found that it had not met their expectations although "Dennis" was more critical of the lack of clear and honest objectives. He believed that law school should strip away the arcane and simply reorganize as a "trade" school. "Peggy" on the other-hand found that law school did have a clear purpose but it did not live up to her expectations because she was unable to relate to the corporate climate with its over-emphasis on business law and making money. The only positive experience she related was working for a term in the Criminal clinic where she connected with fellow students and found that the work helped other people.

In some instances even the more positive assessments were somewhat qualified by additional comments made by the participant. As one example, "Jonathan" qualified his assessment that he had found law school to be a very good experience educationally, by noting that, "The time you spend in a classroom is only a ... very small part of the law school experience." While he recognized that classes were a significant component and that there was always room for improvement, he cautioned that,

> If you only went through law school and just attended the classes, and that's it, I think that it would be a very narrow experience because it is so structured and so, so narrow. I don't think it would be fulfilling at all! But it was many of the other things in law school, the socialization, the Student Legal Aid (SLA program) ... debate with fellow-students ... undergoing the moot court experience ... those are all parts of the broader experience that I thought was quite valuable for me.

This idea that the most significant educational experiences in law school often take place outside of the class-room is an issue that will be explored further in Chapter 4 - "Informal" Learning.

Emphasis on the importance of the "formal" learning experience in determining a quality legal education in law school was best illustrated by a comment made by "Benjamin". It was an interesting contrast to "Jonathan's" over-all assessment of his law school education which encompassed both the formal and informal learning experiences. "Benjamin" responded to the same question by focusing entirely on the "formal" learning which took place in the class-room. He tied his over-all assessment of the educational experience to the quality of instruction when he stated that

> ... some classes were incredibly meaningful. Some were incredibly meaningless, and it depended ... not on what the subject matter was, but on the instructor. Good instructors meant good courses, meaningful courses ... criminal law wasn't inevitably a meaningful or meaningless subject, it depended on who your instructor was.

Many participants similarly voiced their opinion that "formal" instruction played a key role in determining the quality of their educational experience at law school.

Effective Instruction

There was essentially no disagreement amongst participants that effective instruction was a necessary part of a quality legal education. Participants in this study while they indicated that they could learn even in situations where the instruction was poor, identified effective instruction as being a critical factor in facilitating learning. "Dona" a participant in Focus group #2 expressed her belief that she could learn "in spite of" poor instruction when she stated, "I think I had some of the worst teachers that I've ever had in law school, which is not to say I didn't learn the material." She continued by referring to a specific example of an inadequate instructor and indicated that she was able to learn despite this individual but cautioned "Mind you I only learned enough to pass his exams!"

Other participants in Focus Group #2 agreed with "Mary" when she commented that "In some cases instructors were good and the quality of instruction was high ..." but there was also agreement when she continued with her second observation that when the instruction was sub-standard "... going to classes actually hurt you in terms of trying to learn the material." Many participants commented that it was preferable to "skip" classes when the instructor was not effective and there was little to be gained by attending. Despite their apparent ability to learn the material without assistance where necessitated by poor instruction this was obviously not the preferred choice. Rather, participants expressed their concern that the importance of instruction was not recognized by the law faculty and they made many specific suggestions for improving the over-all quality of teaching.

When participants were asked what they had thought was a necessary part of an excellent legal education many referred to the key role played by the instructor. "Heather" responded to this query by saying that: "... teachers who care and teachers who can communicate clearly and who treat the students with respect" are absolutely critical.

Faculty members must be able to communicate knowledge. This has been recognized as absolutely essential to the existence of institutions of higher learning including the university. According to Mathis (1979), "A college or university is judged by the performance of its faculty; and the quality of educational programs is directly related to the behaviour of faculty members, especially their effectiveness as teachers." (emphasis added) Unfortunately most faculty members have only acquired an expertise in content area and have no formal training as educators. Professors are generally recruited based upon their academic credentials and are seldom selected for their proven ability to teach. As a result, the professor who is solely a content expert may not have either the background or the inclination to prepare for the diverse roles which are necessary to facilitate learning. Without conscious attention to the educational process there is unlikely to be a successful transference of the knowledge which the content expert possesses.

Many academics have assumed that their role of communicating knowledge can be satisfied by the research and publication functions of faculty. The ability to teach and transmit information to students has often not been valued as an essential quality of academic responsibility. The "Smith" Report (March, 1990) which summarized the findings of the Independent Commission of Inquiry set up by the Association of Universities and Colleges of Canada identified as a primary issue, the status of teaching in universities. Dr. Smith stated that, "...teaching is seriously undervalued at Canadian universities and nothing less than a total re-commitment to it is required." (Ahmad, 1992:3)[1].

In fact, Blackburn (1991:364) after a thorough review of the literature concluded that, compared to the studies on the scholarly output of faculty, research on the teaching role of faculty was quite restricted in scope. The lack of value accorded to the teaching role of the university professor was found to be an issue in the faculty of law similar to the problem identified in other faculties of higher education.

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[1] This issue was addressed in an open letter to the Presidents of Canadian Universities, where Ahmad (1992:3) and colleagues expressed their concern over the fact that faculty are encouraged to neglect teaching in preference of research and publication.

The whole issue of effective instruction in law school has been discussed in several articles and books (Gold:1992, LeBrun:1994, Ramsden:1992) but there is resistance by some law instructors to take the time necessary to review, revise and improve their course delivery. Despite a good deal of rhetoric about the importance of teaching excellence, traditional scholarship was still found to receive more rewards than does innovation in education (Moses: 1988). As a result many academics have chosen to spend more time developing their research profile at the expense of improving their expertise in teaching.

This did not go unnoticed by the students. When "Heather" spoke about the importance of instruction she also stated her concern that other demands on law professors interfered with the time they were able to devote to the teaching role. She "... worried about the effect on the quality of teaching (by) having rigorous requirements for publication and other involvement in the University."

"Lynne" also noted that an excellent faculty is critical to an excellent legal education but she clarified this statement by adding, "... and when I say that, I mean good teachers as opposed to well-published people who have been high achievers and have Master's degrees." Although she recognized that these attributes may not be mutually exclusive she was concerned that,

> ... there is a real drive to get people (who) are considered to be the best and brightest without giving consideration to their teaching ability. Because if you can't pass the information on, it's really not much value to your students. Good teaching is the most important thing!

Through many similar comments made by participants, the findings of an earlier study by MacFarlane (1986) were reflected. MacFarlane explored the personae of the "ideal" law professor through the perceptions of both students and lawyers and found that neither valued the legal research and writing function of a law professor. Students and lawyers alike rejected the notion that research and writing were an important or worthwhile activity and neither was seen as a necessary attribute of an "ideal" law professor. MacFarlane (1986) found the antipathy surrounding this issue surprising as it appeared to extend to any activity which might orient the professor towards a "cloistered academic life."

> Research and writing is not only unacclaimed, but also is specifically rejected ... it is perceived to be a bookish, intellectual activity divorced from the real world of training for the practice of law.
>
> ... Certainly no perception exists of any contribution of writing and scholarly activity to classroom teaching. Given this break in the link between writing and teaching, one should not be surprised that students and practitioners believe the professor should concentrate on classroom duties instead of what are seen to be personal, tertiary pursuits. (p.104-105)

While MacFarlane recognized that the results of his study would meet with the disapproval of the law faculty he justified publication of his research with the statement, "Some professors may be outraged by this finding, but their discomfort does not alter the existence of the perception held by students and practitioners." (p.105)

MacFarlane also found that the role of service to the larger community was also considered unimportant. "A professor in any discipline in a university has three generally accepted duties: teaching, writing, and service. Students and practicing lawyers have rejected two of these three duties for their ideal law professor personae. All that remains is classroom teaching ..." (p.105) The implication of MacFarlane's research findings are that the law professor only exists in the minds of law students and lawyers as a creature of the classroom to be judged solely upon performance of that role.

Despite the clear message that class-room instruction was considered a critical element according to both students and practitioners, some law professors have claimed that any push to improve teaching effectiveness is an infringement upon their academic freedom. But Gold (1992) countered this argument by stating that this was an inappropriate justification of poor education practices.

> ... no one doubts that a person should be protected in his controversial opinions ... but the freedom has been extended beyond the privilege of comment to controlling the contents and teaching methods of a subject or course of study. Academic freedom has been used to justify racist and sexist language and other instructional behaviours, to promote the right not to teach an agreed component of a syllabus, to refuse to adopt varied teaching and assessment methods, to preclude the evaluation of a course or a particular instructor's delivery
>
> ... The interest of academic freedom is to provide opportunity for free comment and exchange without risk of sanction or discipline, it does not substitute for curriculum development, instructional design or the assessment of learning ... (p. 109)

Renner (1995:146) was much harsher in his criticism of the use of academic freedom to justify poor educational practices. He commented that academic freedom has now simply become the freedom to be an academic. He contrasted this with other more collaborative methods of learning,

> ... (which) start with the decision by teacher and student to share an academic goal ... match(ing) the needs of both the student and the teacher. This mutuality is far different than when academic freedom means my right as a teacher to do what I want and your right as a student to forego the credential that only compliance will bring. (Renner:p.111)

MacFarlane (1986) identified in his study an interesting phenomenon. He found that the self-personae which law professors develop in the course of their career was not only different, but it was in many ways completely opposite to, or in the words of MacFarlane "hostile to" the ideal law professor personae as identified by practicing lawyers. Law professors and lawyers as a group seemed to have little or no understanding of each other. Law students identified with a personae of an "ideal law professor" that was somewhat in the middle ground. When they began law school they identified more with the personae of the ideal professor that was initially nearer to the professors' ideal. Gradually, however, throughout law school, students moved towards the practitioners' ideal. Apparently the three years of exposure to legal instruction resulted in students identifying less and less with the ideal professor personae as perceived by their law professors.

MacFarlane (1986) speculated that the divergence between the professors ideal self-image and the ideal personae of a professor that both students and practitioners hold may by the result of the current state of legal education. Students and practitioners may be distanced from a realization of the full role of the law professor as a result of the larger size of classes and the impersonal nature of the teacher-learner relationship where the full work of the professor was not known.

The two possible explanations of the antithetical divergence of perceptions were stated by MacFarlane as being:

1) the result of large classes; and
2) the impersonal nature of the teacher-learner relationship.

Focus Group #2 participants made the following comments which shed further light on these two issues:

Class-size:

Several participants agreed that smaller class size would have improved their legal education experience. ("Sara"/"Ella"/"Jake") While "Kent" agreed that small classes were beneficial, but he recalled one particularly effective professor in his undergraduate years who had established rapport with even larger classes than existed in law school. "One of the reasons that I don't really accept the size excuse is that in under-grad ... (Prof. name) was everybody's friend and he had hundreds of students. Size does not have to be a barrier!"

Impersonal relationship between teacher and learner:

More than one participant agreed with the statement that it was critical to have "... teachers who are accessible" ("Brian") but comments of other participants indicated that this expectation was often not met. In fact, members of Focus Group #2 discussed the actual physical plant of the law faculty as being designed in such a way that it isolated the instructors from the students. According to "Greg", "... they almost built that building to create a barrier between the faculty ..." In terms of access to instructors, it was noted by "Mary" distance could also be established on the basis of personal availability and she commented that there were some professors who were "... willing to be accessible to students who had problems (and others) who would treat any kind of question after class as a kind of intrusion."

Certainly there was a broad spectrum of feelings associated with the relationship of students to faculty. "Ella" commented that she had always felt, "... that the tone ... the basic tone was intimidation ... I felt very intimidated in class." Another member of Focus Group #2, "Joan", reflected that there was, "... a learning culture in different schools, in different faculties. Like a tradition of what the faculty was as a whole." According to "Joan" the interaction of students and professors was therefore critical as this established the climate for that faculty.

KEY PRINCIPLES OF EFFECTIVE TEACHING

Participants in Focus Group #2 and the one-to-one interviews were asked to give an example of effective teaching. If no information was forthcoming, the participant was asked to recall one instructor and describe something that this individual did, that really "worked" for them in terms of assisting their learning.

In considering what qualities were associated with his most exceptional instructor, "Kent" commented that it was the combination of an excellent teacher in a small class setting and both "Joan" and "Jake" agreed that small sections were superior classroom settings. The participants in Focus Group #2 not only stressed the benefits of smaller classes directly, but also indirectly, by selecting as examples of effective instruction those individuals who had taught them in "small section" classes or seminars. Part of this can be attributed to the traits of particularly effective instructors which were identified as including organizational skills, clarity, knowledge of subject area and enthusiasm. Some or all of these characteristics may have been more easily demonstrated in smaller settings which were more conducive to student-teacher interaction. The importance of smaller classes and the connectedness of the teacher and the learner was best illustrated by the observation of "Joan" who stated that students in small classes could be more involved in the learning process,

> ... getting back to why I enjoy small sections so much, (it) has to do with the variety of tasks that were demanded of us which didn't include necessarily the lecture-only (teaching) style ... that was really important.

While teaching required a particular skill-set, this did not necessarily equate with the academic prowess of the instructor according to "Ella", who declared that, "... I know that there are a lot of intelligent people who are very bad teachers."

"Ella" believed that, "Teaching is an art." Factors that were identified by the participants seem to indicate that if it is "an art", it is an art that can be learned, at least in part. There were many attributes of an excellent instructor that had to do with organization and enthusiasm as with innate personality characteristics of the instructor.

For example, "Sara" commented that the best instructor she had was an intelligent man but the most important criteria is that he was interested in the material he taught. She contrasted this with instructors who did not keep current or make any effort to responsibly teach the subject:

> ... there were some professors who I do not think had updated their materials for 5 or 10 years ... and I make no comment on their intelligence because you could not tell (based on) what they were doing.

Others in the group agreed that it was important for the instructor to know the subject area. "Jake" remarked that it was also important for instructors to start with the basics and give the students something to build on rather than going off on "tangents."

While the reviews on the quality of instruction were mixed in Focus Group #2, "Jake" was quite impressed and in response to criticisms about the quality of instruction in law school, he stated that,

> Over-all I thought that the calibre of teachers at (law) school ... was better than the teachers that I had in undergrad (however it) ... is just a fact of life going to university, a lot of people don't like to teach but they have to teach.

Another participant, also attempted to counter-balance one of the more negative remarks made about law school instruction - that teaching was simply viewed by the faculty as a necessary evil of getting their pay cheques. "Brad" responded with the observation that there were many professors to whom this did not apply and that the majority were trying very hard considering that,

> ... I'm not sure that professors generally at university are taught how to teach. I think in law school there are a lot of professors who are teaching out of their fields of expertise so they neither have the interest nor the ability.

He continued by saying while individuals may struggle against these factors he was, "... not sure that they're given the tools" and concluded by stating that "I am not sure we were the most appreciative audience either." While an appreciative class may be easier to satisfy, the literature would support the premise that good teaching encourages high quality student learning and there is always room for improvement in the critical role of the professor. According to Ramsden (1992), it is unfortunate that,

> It suits many lecturers to believe that because learning is ultimately the student's responsibility, effective teaching is an indeterminate phenomenon. There is a cherished academic illusion, supported by abundant folk-tales, that good teaching in higher education is an elusive, many-sided, idiosyncratic and ultimately indefinable quality. (p.87)

In fact, Ramsden (1992) has compiled a list of properties that instructors themselves identified as being key components of effective teaching. He combined this with a similar list developed from student experiences. He summarized the research findings in the "Six Key Principles of Effective Teaching in Higher Education". It was interesting to note that attributes of effective instructors which participants identified were easily categorized in five of the six principles identified by Ramsden. LeBrun (1994) compiled these principles into the following summary:

Ramsden:1992

Key Principles of Effective Teaching

Principle 1)	**is able to make teaching and materials genuinely interesting and understandable so that learning is pleasurable for students;**
Principle 2)	**is willing and able to show respect and concern for students and their learning;**
Principle 3)	**can provide appropriate feedback and assessment;**
Principle 4)	**offers intellectual challenge and specifies clear goals;**
Principle 5)	**engages students actively in their learning, gives them control over learning and independence; and**
Principle 6)	**is able and willing to learn from students.**

Le Brun et. al (1994) p. 120

According to "Beatrice":

> There's something about good teaching no matter what the age is of people or the subject being taught, there are qualities of good teaching. They love their subject, they're enthusiastic. They give lots of examples. They don't read their lectures. They use a variety of teaching techniques.
>
> They don't always lecture. Sometimes they get (students) into small groups, sometimes you might do a little written exercise in class ... we weren't exposed to many (different teaching methods) in law school. ... in law school, the primary teaching method was lecture style ... but even lecture style can be captivating if someone is good at it ... but I think it's often not done overly well (and) it's probably used too much.

While some have argued that teaching is an "art" which cannot be improved, Ramsden (1992) stated that, "The reality, as opposed to the mythology, is that a great deal is known about the characteristics of effective university teaching." (p.88) While he conceded that it is complicated and there is no indication of a "best way" to teach there are several principles that have been recognized. "The research supports what good teachers have been saying and doing since time immemorial."(p. 89) Ramsden (1992) considered research studies that compiled the discrete attitudes and behaviours in instructors that were identified as important properties of good teaching. The compilation of research results by Ramsden in the *Key Principles of Effective Teaching* was accurately reflected in the attributes and behaviours of a good instructor as identified by participants in this study.

Ramsden further found that there is evidence to support the authenticity of students' views. He quoted two studies of evaluations of teaching in support and found that findings taken together, "... tend to undermine the widespread views that students confuse popular lecturers with good lecturers ..." Further the belief that students cannot recognize good teaching due to the fact that they are not knowledgeable in the subject area or are not mature enough to recognize "what is good for them" is another myth of higher education.

> It is abundantly clear from comparative studies of graduates' and students' reactions to courses (see, for a recent example, Mathews et al., 1990) that anecdotes to the effect that bad teaching is really good teaching (when students reflect on it a year or so later) have no foundation in fact. Graduates rate the same courses similarly to current students." (p.90)

When participants in this study recalled experiences as students they demonstrated that they were critical consumers of education and were not satisfied with superficial "entertainment" in the classroom. Learning had to taking place if the instructor was to be held in high regard. "Casey" is one example of a participant who criticized an approach taken by one professor and although he indicated that the time spent was "enjoyable", it certainly did not salvage the fact that the professor provided only a superficial coverage of the subject matter.

> I thought that he was funny and engaging, and then, I got out of contracts and realized I know absolutely nothing about contracts. He didn't take, he never, ever took an overall view and exposed us to the whole thing, the big picture ...

Each of the principles identified by Ramsden will be considered in turn by providing participant quotations which identify the importance of that element in respect to law professors.

Principle 1: Interest and Explanation

In considering this principle Ramsden (1992) stated that,

> Few people would disagree that a facility for giving clear explanations of complex subject matter is a mandatory part of a lecturer's repertoire. It is evident that this facility can be learned (Brown:1978) Even more important, however, would appear to be the related ability to make the material of a subject genuinely interesting, so that students find it a pleasure to learn it. (p.96)

Participants - Positive characteristics identified by Focus Group #1 ranged from personality traits such as a sense of humour to the ability of organizing and teaching an area of substantive law by fusing context with theory. But most frequently recalled by participants were instructors who were passionate about the area that they taught.

One example, concerned an individual who thought that their subject area, "... was just the best thing and he made you love it!"

"Mary": I think the very best professors I had were very clear. They were able to explain complicated principles in very clear language ... they were also very enthusiastic about their topics so that they conveyed that enthusiasm to the students and it would catch on.

"Penny": I think of the professors that really stand out in my mind is Judge (name), she spoke so well and made her classes so interesting and made the cases come alive for us ...

"Charles": Property law is really quite boring. Out of all the first year courses that's probably the worst! But he could actually keep you interested ... he knew when people were getting bored, so he would do something maybe a little bit silly ... he would personalize the cases ... he could get you to relate to the problem ... he worked on the strengths of the course rather than just teaching as a job.

"Heather": Professor (name) is a very good academic instructor (who) enjoys legal argument and the academic analysis, gets very excited about it ... I remember watching him thinking he's really having a great time up there.

"Mable": (*an example of effective teaching*) ... would definitely be (from) one of my smaller courses where you actually had some interaction. I don't find personally that I learn well in a room of 250 people and somebody is just talking at me and I have to spit back the same thing ... the courses that I learned the most from were ones where the professors seemed impassioned about what they were teaching ... they were able to make law interesting and related to something that I could relate to.

Principle 2: Concern and Respect for Students and Student Learning

According to Ramsden (1992:98) "Research on higher education ... underline(s) the vital importance of respect and consideration for students in effective university teaching.

> Key indicators include "honesty and interest in teaching" "availability and helping "students feel that a subject can be mastered. "Teaching ... requires developing a keen interest in what it takes to help other people learn; it implies pleasure in teaching and associating with students ... (Ramsden:1992:p.99)

Participants - The members of Focus Group #1 agreed that one of the key attributes of a good instructor was "intellectual honesty". One participant spoke about a particular professor who, "... didn't prepare for class, he just propounded". He said that the students recognized this immediately and simply didn't bother going to class. Members of Focus Group #1 agreed that it was totally inappropriate for instructors to use the class as a "soap-box".

"Natalie" gave the example of a busy practitioner who she felt was an exceptional instructor. He managed, despite his busy work schedule, to always be well prepared. He also exposed the students to a well rounded learning experience by introducing many guest speakers from the legal community and covered cases by involving students in active discussion and analysis in class. The individual attention and concern for the students which he communicated was found by "Natalie" to be highly motivating even when she knew that she would never practice in that area of the law. She stated that,

> ... he was good at getting the class going in terms of saying - "Okay, this is the principle. Now what about this situation? How would you argue that? What would you ask? ... (he taught) the practical application of the theoretical. He knew his stuff, could apply it, (he had) tremendous presence (yet) a lot of respect for the students ... as many cases as he had on the go he was not too impressed with himself, I mean he wasn't there for you to say how great he was, he was really concerned with you understanding the law and the process in courts ... I never missed that class - it was just fascinating!

Participants agreed that a truly effective instructor had to have not only the ability to make the course material stimulating to the class but also to be aware of when the majority of students were no longer engaged in learning. "Richard" cited the example of one professor who,

> ... was a really great teacher in that he could tell when he was losing people ... like one course (which) was after lunch, and I think a lot of people started to nod off, but when they did he would try to make things more dramatic, and entertaining ... you would remember a concept partly (because of) the way he dramatized it.

Instructors should aim to be student-centred as it is not in the best interests of the student to focus on the role of the teacher or place the instructors brilliance on display. Unfortunately some of the examples provided by participants set out situations where there was a clearly lack of consideration for the students by the instructor. Particularly damaging were professors who demonstrated little concern or respect for student learning by making no attempts to engage the students at their level of understanding.

Instructors were found to be more effective when the student's level of knowledge and their abilities were considered when setting course objectives and preparing materials for class. "Casey" referred to one instructor who illustrated the dividing line between challenging a class to acquire new knowledge and simply demonstrating a lack of concern for student learning by choosing language and subject depth which were clearly inappropriate,

> I never knew what he was talking about. And no one else (in the class) knew what he was talking about, because he (was) so full of himself that he was talking on a really high level, and expecting everyone else to be totally conversant in ... theories of interpretation and hermeneutics ... and no one had a clue what he was talking about ... (he should have) come down to our level (and) taken two or three degrees off of his ego.

"Raymond" also found that the failure to convey the subject matter to students was related to an instructors failure to focus on student understanding,

> My (subject) law professor was hopeless ... he was totally ineffective because he spent all of his time talking about abstractions way off in left field ... the whole basic understanding of the law was missed ... it was like a soap-box for him (and) I don't think that's the right arena for "soap-boxing."

MacKay (1995) in an article entitled, "Some thoughts on a more humanist and equitable legal education" considered the challenge of making law schools more inclusive for students. He stressed the importance of ongoing dialogue between the teacher and student which involved, "... considerable self-reflection at both the rational and emotional level." (p.920) He concluded that the importance of respect and concern for the student were absolutely critical:

> Without the human link between teacher and student founded upon a respect and caring for that student, there is little hope for transformative education and a more inclusive education. (p.923)

Principle 3: Appropriate Assessment and Feedback

The importance of feedback has been confirmed according to McKeachie et.al. (1986) in numerous research studies which were summarized as follows:

> The timing and emphasis of feedback on performance should be:
>
> > 1) frequent, immediate, contingent, and informative in terms of pinpointing the probable source of student errors;
> >
> > 2) encouraging; and
> >
> > 3) provided in a natural context that displays performance recognition by a source the student respects.
>
> (Corno & Rorkemper, 1985, p.81; see also Brophy, 1981; McKeachie, 1986, Chapts. 8 and 9) Under such conditions argue these researchers, a sense of growing competence and self-worth tend to support intrinsic engagement with learning.

Participants - Members of the two focus groups and participants in the one-to-one interviews stressed the importance of there being high quality and ongoing feedback on student work. In Focus Group #2, "Dona" commented that the one way her legal education experience could have been improved was if she had got better feedback, "... they should let you know what it is they were looking for". "Mary" agreed with her statement and added that this feedback need not be related to the method of marking. In fact, even if the instructor choose to use 100% finals, which most participants condemned, "Mary" still felt that ongoing feedback would be of assistance. She recommended the use of practice examinations, ... where you would get feedback about:

> a) this is how I want you to analyze problems;

> b) this is where you are departing from that;
> c) this is what I want you to learn from this course.
>
> So even though you might not get marks that count ... at least you would be moving towards an objective and you'd be getting feedback to help you when you finally do write that final exam.

This issue will be looked at in more detail in the section on Student Assessment & Evaluation Methods later in this chapter.

Principle 4: Clear Goals and Intellectual Challenge

Ramsden (1992) found that it was important to express the aims and objectives of a course for two reasons:

> 1) it required the instructor to think more critically and deliberately about student learning and the direct connection this had to the teaching activities; and
> 2) it sent a clear message to the students in respect to exactly what they were expected to learn in the course.

Unfortunately, according to Ramsden, "All too often students begin a higher education course with only the vaguest notion of what key concepts they must master. Breakneck attempts to "cover the ground" in the absence of a clear structure focused on key concepts intensify their confusion and deaden their excitement" (p.100)

Participants - Comments of participants supported the need for clarity in terms of course objectives and the importance of a well designed course with over-all structure and daily lesson plans. According to Ramsden, the course syllabus is the traditional way that the content of a course is communicated to the class. Course objectives should be related to learning activities and aimed at assisting the students.

"Mary" stated that "... the very best professors I had were ... very organized in terms of each lecture and also the over-all structure of the entire course, so that the course had an objective and by the end of the course you had reached that objective." According to Ramsden (1992)

> The most compelling reason for using aims and objectives, or some similar method of describing content, is that it forces us as teachers to make our intentions for student learning explicit.
> There ought to be a definite educational justification for every activity, every piece of content, that is present in a course of student. Tradition and habit are not satisfactory educational reasons.
> (Ramsden:1992:p.134)

Five of the interview participants indicated that they agreed that organization and clear direction throughout the course were essential to the student and a necessary attribute of an effective instructor. One participant gave an example of a professor who provided the lesson plans in advance to the class. She thought that this had been particularly helpful in learning the materials covered.

"Brian" was in agreement with the importance of lesson plans and he provided this as his one example of something that a professor did that was really helpful for him as a student. "(Name) had great lesson plans that had the course broken down ... (it) tells you where you are, where you are going, breaks things into little "bites". I think that was good."

Principle 5: Independence, Control, and Active Engagement

Ramsden viewed education as a "provisional state." The primary objective of all learning should be to ultimately make the learner self-sufficient. This is particularly critical in teaching future professionals where life-long learning will be a requirement in order to keep abreast of developments in the field of study. There are really two parts to this equation:

1) students must be provided with sessions to practice; and,
2) learning should be individualized to accommodate different learning styles.

Opportunities should also be provided for both individual problem solving and cooperative learning. According to Ramsden (1992) "The positive effects on achievement of cooperative learning as compared to competitive and individualistic learning are very well established in the educational literature." (p.101) Ramsden (1992) also cited research in which participants found group discussion helped them understand course material and fostered a "deep approach" to learning which lead to higher quality learning outcomes. In addition, in order to foster high quality learning, students should have some choice not only over "how to" learn the subject matter but also control over what aspects of the content are to be focused upon. (p.100)

Participants: Class discussion and study groups were two key elements identified by participants as being helpful in maintaining their interest in-class and assisting them with study out-side of the classroom. There were, however, few participants who spoke about having any input into the material covered in classes. One exception to this general rule was the opportunity that students had in paper-courses to determine a specific research topic and focus their efforts on self-learning in that one area of the law.

Many participants indicated that these types of courses provided the best opportunity for in-depth learning. "Casey" - "I made a very conscious choice to take mostly paper seminar courses". Although he found that paper courses were more labour intensive then simply studying the night before and writing an exam which was what he stated he did when he had courses with 100% finals, "Casey" believed that despite the increased work-load in courses with an end-of-term paper, that it was worth the time and effort as he was then able to develop his own ideas, "... and I also could take a more critical-analytical outside look at the course content".

While it was important to many individuals in the study to have an opportunity to choose and explore a subject area in depth, it seemed particularly essential to individuals like "Casey" who were critical of the common teaching style found in law school. "Casey" referred to this approach using a term developed by Paolo Friere, and said that it was "... the banking style of learning (where) teachers are just trying to deposit the learning in the students." He found that law school lacked active learning opportunities and that for law students, "... it's not a mediated learning experience."

Learning was generally found to be enhanced where the student was able to modify their own learning strategy and also where there was some influence on the course content or development. This was much easier to accomplish in seminar courses where marks were based on the submission of an in-depth research paper and participation in class discussion. "Casey" acknowledged that he was able get a lot out of law school courses, but he purposely accommodated his own learning style through the choice of courses. He was able to maximize his own learning because that's, "... the approach that I took to it, and not the approach I was meant to take to it."

A second example of choice over how to learn the subject matter and control over course content, was very unusual. Only one report of this type of interaction between students and the law faculty was disclosed in the study. It reflected a very responsive law faculty that followed the "active engagement" aspect of Principle 5. The situation involved one participant who indicated that he was part of a group of students who went to the faculty and asked if the faculty would offer a specialized criminal law course comprised of one term of full time study and practical experience. This course had been run in the past but there were no plans to offer it during that particular school year. Because of the student interest expressed in a joint petition, the law faculty responded by setting up the course and it was available to those students who had requested that it be offered. The participant indicated this comprehensive and practice-oriented course was his most valuable learning experience at law school.

Principle 6: Ongoing Instructor Evaluation

This principle is based upon the instructors desire to learn from students and other sources about the effects of teaching and how it can be improved.

One of the most important and over-looked aspects of teaching is its evaluation. The constant evaluation of teaching is intrinsic to good teaching. It enables the instructor to understand the effects of the teaching upon their students' learning. As McKeachie (1986:267) stated in respect to the importance of student feedback it,

> ... is based (on the) assumption that the purpose of education is to bring about changes in students. If instructors agree with this assumption, it is apparent that information from students is required to provide a basis for improved teaching. Student evaluation of instruction is a relatively direct method of obtaining this information ...

As the ultimate criterion of effective teaching may be evidenced by the impact of teaching upon student learning, it was important to evaluate not so much what the teacher has done, but what has happened to the students. It was also important to recognize that students do not simply enter law schools as "empty vessels," waiting to be filled with knowledge. Learners come with a broad background of experience and the instructor should focus attention on how knowledge can be constructed by building on previous knowledge in a learning context. In recent years research has perceived the learner less as a passive recipient of information and more as a self-determining agent who actually selects information from the environment and who constructs new knowledge in the light of what that individual already knows. (Biggs: 1989)

Participants in Focus Group #1 were somewhat critical of the "hands-off" policy of the law faculty in respect to what actually goes on in the class-room. As one participant pointed out they do not "police" courses. Other members of the group agreed that there was no monitoring of either what was taught (course content) or how it was taught, including assessment of the instructor's abilities. As course evaluations are now conducted as a rule at the end of most courses it was not clear whether participants were referring to ongoing evaluation throughout the year or assessment at a level other than student evaluation. It was apparent, however, that members of Focus Group #1 perceived the present evaluation systems to be inadequate in ensuring the quality of course content and delivery.

There are three ways for an instructor to solicit information in respect to the evaluation of effective teaching:

1) student evaluations;
2) independent (or peer) evaluation; and
3) self-evaluation.

It is informative for the instructor to solicit and receive ideas about good teaching from many sources including students and fellow-instructors. Ramsden (1992:89) draws upon research where individual teachers have described good teaching. He has compiled a list of what he terms the properties or characteristics of good teaching and these can provide guidance to the instructor in setting areas for evaluation and improvement.

Student Evaluation

> Numerous studies support the use of students as sources of data about teaching effectiveness and student opinion (collected primarily by the use of end-of-course, standardized student-rating forms). This continues to be a major source of evaluation of faculty effectiveness in institutions of higher education. Abbott et al.:1990).

While it may be useful for the instructor to use these traditional methods to improve teaching there are also other methods of gathering information from students throughout the year that are equally effective. In fact, the study conducted by Abbot et al. (1990) found the students prefer to complete student evaluations at mid-term. While further research has been recommended on this topic, instructors were well advised to consider other approaches and discontinue over-reliance on the current individual, standardized student-ratings.

The comments of participants add support to the statement made by Ramsden (1992) that,

> ... the research findings on good teaching mirror with singular accuracy what your students will say if they are asked to describe what a good teacher does. College and university students are extremely astute commentators on teaching. They have seen a great deal of it by the time they enter higher education ... Moreover they understand and can articulate clearly what is and what is not useful for helping them learn. (p.89)

Independent Evaluation

One example of the types of educational resources that are being developed in higher education is the "Seven Principles of Good Practice in Undergraduate Education" (Chickering, Gamson & Barsi: 1986) These principles are grounded in higher education research about teaching and learning. There are two parts to the Inventory which can be used jointly or separately. The developers of the Inventory (Chickering et al.:1986) described the instrument as follows:

> The Faculty Inventory has seven sections, one for each Principle: Student-Faculty Contact, Cooperation Among Students, Active Learning, Prompt Feedback, Time on Task, High Expectations, and Diverse Talents and Ways of Learning. It can be useful to faculty members, student services staff, and administrators who also teach. The questions address activities consistent with Good Practice in Undergraduate Education and help respondents identify activities they might wish to pursue.
>
> The Institutional Inventory has six sections: Climate, Academic Practices, Curriculum, Faculty, Academic and Student Support Services and Facilities. These questions deal with various aspects of the institution as a whole. They address policies, practices, institutional norms, and expectations that support good practice. This section can be used by persons or groups associated with the institution, whether or not they teach. (p.2)

This type of instrument which was, according to the authors, anchored in decades of research, provided one example of the tools for assessment available. The Faculty Inventory was developed to assist instructors and the Institutional Inventory was intended for use by the entire faculty/administration. Both are aimed at improving the quality of education offered. While financial considerations are often given as a reason for the lack of change or improvement, the cost of using either instrument is minimal as the Inventory can be reprinted with no charge to either the individual or institution. It has been generally recognized that the first step in any faculty development program is a "needs" analysis. Once areas for improvement have been identified through a needs assessment for either the individual instructor or the faculty over-all, then specific resources can be sought to satisfy those needs and thereby improve educational practices.

Self-evaluation

In respect to Principle 6, the following are all important:

1) to define quality,
2) locate a means of assessing present performance (measure quality); and
3) developing a program to improve quality.

In addition, it is equally important to foster a climate of positive self-improvement particularly in respect to teaching performance. Otherwise the individual will not be encouraged to engage in ongoing reflection and a personal program of self-improvement. Without faculty motivation little will be gained by adopting external standards of assessment. Peters and Waterman (1982) made it clear in their widely read work "In Search of Excellence" that passion and commitment are as important to quality as the adoption of rational models for quality assurance.

One instructor Hantzis (1988) stated that, "Many of us have struggled with the difficult and complex question of how best to teach our students?" (p.155). Her practical advice to the law instructor is threefold:

a) Spend time with your students; (For example arriving in class a few minutes early and talking about the days material.)

b) Show your students that you care; (For example, provide written hand-outs, exercises and practice exams.)

and;

c) Find a new experience for your students. (p.162-163)

> Nothing moves students more effectively than a new experience or experiencing a familiar thing from a new perspective ...
>
> It is worth considering for every class whether there are any experiences that would help your students understand not just the legal theory but the way in which that theory affects people's lives. Field trips for a large class may be hard to arrange, but the educational benefits are likely to outweigh the practical difficulties. (p.163)

"Peggy" would provide support for innovative classroom experiences. When she was asked to give a final comment on how her legal education experience could have been improved, she said, "...a field trip or two would be good because when you (are in) law school you have no idea what it's like out there." She then related a specific personal experience about going to cells at the police station prior to court one morning. The law school had arranged for her to meet a defense lawyer and follow him through the "grimy cells" - "I mean ... it's just, just a real eye-opener, and I'll always remember the lawyer that I was with and you just never forget an experience like that!"

It was apparent that if the instructor was able to incorporate some of these suggestions into practice, and become a more effective teacher, then the students motivation to learn the law would increase. This would, in turn, promote student learning. While not to minimize the importance of effective instruction it is only one part of the equation. Instructors should do what they can to facilitate learning and best utilize the student's time, yet ultimately the learner has the responsibility of selecting their approach to learning. (Ramsden:1992) Research has shown, however, that,

> ... some types of teaching and assessment definitely induce narrow, minimalist approaches to studying

> … (the) deep approaches are fragile things; while we can create favourable conditions for them, students' previous experiences and other unmeasured factors may mean that they remain unexercised.
>
> … No one can ever be certain that teaching will cause students to learn. In the last analysis, excellence in teaching cannot guarantee that students will understand. (p. 80)

In order to assess how teaching can facilitate learning it was essential to ask participants:

> **Question: What learning strategies did they find to be particularly effective?**

The responses to this question are considered in the next section on "student learning."

EFFECTIVE STUDENT APPROACHES TO LEARNING

It was important to appraise the learning experience from the student's perspective. This included uncovering the ways in which participants engaged in learning. Law school for most students was the end of their formal education and the beginning of their professional experience. It was, therefore, a vital connective point between the structured learning environment of the classroom and the unstructured learning environment of the larger world. Analysis of the approach taken to learning in law school provided valuable information about legal education at the pre-professional stage. The learning approach adopted may also play a determinative role in the future adjustment of that individual to the profession and the ongoing learning required by a career in law. According to Johnstone (1992) in an ideal law school environment, students should be intrinsically motivated to learn law and learn about law. Research in higher education has also established a link between the approach taken by the learner and the outcomes of the education experience in terms of the quality of learning (Ramsden:Säljo) and the over-all satisfaction expressed by the learner. (Davis & Murrel:1993)

Powell (1985) conducted a study in which he examined the autobiographical accounts of graduates and he concluded that students attached most importance to the acquisition of general intellectual skills, attitudes, and values. In fact, specific content knowledge was rarely mentioned in these written accounts. Descriptions of learning included references to the development of problem-solving ability, logical thinking, and information-gathering skills, together with a growth in self-confidence and independence. Criticisms of higher education included comments on the negative effects attributed to excessive competition and inappropriate assessment. (p.133)

Students do learn differently and this was evident in the comments of the participants. Learners differ in the organization of their work and in the way that they make the material that they are learning meaningful. There existed, however, many examples that demonstrated the commonalities in approach which participants preferred and felt were worthwhile. Similarly there were other situations where the learning experience had been frustrated by factors which led participants to adopt more superficial approaches to learning in order to simply "achieve the grade."

Participants were unanimous in their agreement that meaningful learning was more likely to occur if they were engaged with the subject matter for its own sake and not for the purpose of an extrinsic reward. Intrinsic interest and self-motivation were the key to student satisfaction with the learning experience. The difficulty, however, was that participants often found a "deep" and intrinsic approach to learning was simply not possible under the circumstances of law school. This decreased their perception of quality in the legal education environment.

Participant comments - Many of the participants commented on the fact that they "crammed" for exams and that they felt they had no time available other than to "skim the material" and rely upon short-term memorization in order to pass exams. The volume of work and the reliance on evaluation methods such as 100% finals were the two elements most criticized as being to blame for these superficial study methods.

"Peggy" - "I just did a lot of short term memory ... that's the sad part, it's just short term memory. I can't retrieve anything of it, it's gone! I mean it got me through the exams." When she was asked why she relied on short-term memory so much, she responded, "Just because of the volume."

Four of the participants referred to "CANs" as being essential in helping the student get through law school. The "CAN" is an acronym for "Cases and Notes". It was defined by participants as a brief overview of the material covered in class in summary form usually prepared by a fellow student. "Victor" was one of the participants who admitted that he relied exclusively on a Summary or "CAN" after completing first year. The most effective learning strategy he adopted was that he, "Learned not to try and read everything they gave you in great depth ... I could skim most things so that I was familiar ... with all the material. He justified this approach, saying that it was simply too time-consuming to read everything in depth and he found that,

> ... it wasn't a productive use of my time. It certainly didn't relate to how well I would do in the course or how much I learned ... (in fact) the outlines (CANs) wouldn't exist if everybody had time to read whole cases and brief them.

Other participants mentioned the use of pre-prepared summaries as a study guide and several others spoke about making their own "CANs" as a method of preparing for examinations.

> "Benjamin" - there was a lot of memorization and use of ... what were those summaries called? CANs ... they summarized important principles and laid them out in a contextual format that was easier to remember.

> "Mable" - Because I was so involved extra-curricularly, I did very little reading throughout the year and I just cram, cram, cram(ed) at the end of the year and I don't thing that's the best way to learn. ... I made those CAN's that everybody makes and I found that writing stuff out by hand and making my own summaries and that sort of thing helped me study.

Participants in this study recognized that there were different levels of learning and they often commented upon the fact that they had chosen very superficial methods of learning as students, as evidenced by the above quotations. Generally the choice of the "surface" or superficial learning strategies was justified by the participant as being necessary because of lack of time or the fact that the evaluation methods (i.e. 100% finals) either didn't discriminate between those students who used "surface" approaches or worse appeared to penalize students who took a "deep" approach to learning.

Ramsden (1992) referred to an interview study conducted by Säljo (1979) which led to the description of five different understandings of what learning consists of, amongst adults. Säljo asked students to say what they understood by learning and he found that he could classify their replies into five different categories:

> 1. Learning as a quantitative increased in knowledge. Learning is acquiring information or knowing a lot.
>
> 2. Learning as memorizing. Learning is storing information that can be reproduced.
>
> 3. Learning as acquiring facts, skills, and methods that can be retained and used as necessary.
>
> 4. Learning as making sense or abstracting meaning. Learning involves relating parts of the subject matter to each other and to the real world.

> 5. Learning as interpreting and understanding reality in a different way. learning involves comprehending the world by reinterpreting knowledge.
>
> ... conceptions 4 and 5 in Säljo's system are quantitatively different from the first three. The first three conceptions imply a less complex view of what learning consists of. They resemble the early stages of Perr's and Hasselgren's schemes; learning in these conceptions is something external to the learner
>
> ... Conceptions 4 and 5 emphasize the internal, or personal aspect of learning: learning is seen as something that you do in order to understand the real world. These conceptions imply a more relativistic, complex, and systematic view of knowledge and how it is achieved and used. (p.26)

Generally the difference in approach was based upon the student's intentions. In the "deep approach" the student seeks to understand. In the more superficial "surface approach" the student simply aims to reproduce. The approach taken by the student is largely determined by what the learner perceives as the requirements of the learning experience. Whether time and energy can be saved in the balance against what effort or type of effort is believed to be required in order to achieve a good mark. According to Grant et. al (1988),

> Broadly speaking, deep-processing is characterized by a search for overall meaning and active attempts to connect an author's arguments to previous knowledge and experience, whereas surface processing involves memorization of information bounded by the type of questions the student expects to be asked later. (p.144)

The work of other researchers (McKeachie:1986; Smith et al.(ed) (chapt.13):1995; Ramsden:1992) has indicated that the choice of deep and surface approaches was more dependent on the learning context rather than a fixed personal characteristic approach of the learner. The majority of students vary in their approach from context to context, using a surface approach for one task and a deep approach for another. Ramsden (1992) suggested that students may adopt a deep approach to learning: if the curriculum is designed to encourage active long-term engagement in learning tasks and if relevant material is presented by an instructor who demonstrates interest in the subject in an engaging, meaningful and considerate manner. The following table sets out the conditions in the teaching and learning transaction which foster either a deep or a superficial (surface) approach to learning by the student.

WHY "SURFACE" APPROACHES TO LEARNING ARE ADOPTED BY STUDENTS

Characteristics of the context of learning associated with deep and surface approaches

Surface approaches are encouraged by:

- **Assessment methods emphasizing recall or the application of trivial procedural knowledge**
- **Assessment methods that create anxiety**
- **Cynical or conflicting messages about rewards**
- **An excessive amount of material in the curriculum**
- **Poor or absent feedback on progress**
- **Lack of independence in studying**
- **Lack of interest in and background knowledge of subject matter**
- **Previous experiences of educational settings that encourage these approaches**

Deep approaches are encouraged by:

- **Teaching and assessment methods that foster active and long-term engagement with learning tasks;**
- **Stimulating and considerate teaching, especially teaching which demonstrates the lecturer's personal commitment to the subject matter and stresses its meaning and relevance to students;**
- **Clearly stated academic expectations;**
- **Opportunities to exercise responsible choice in the method and content of study;**
- **Interest in and background knowledge of the subject matter;**
- **Previous experiences of educational settings that encourage these approaches.**

Ramsden (1992) Table 5.1 (p.81)

Accordingly, the instructor should state clearly what is expected in the course so that a deep approach to learning is fostered. The course objectives should be carefully thought out in advance and they should be reflected in the method of evaluation selected as appropriate for the class. The elements of considerate and stimulating teaching have already been covered in the previous section on the exceptional instructor. Unfortunately, there were also examples illustrating those circumstances set out by Ramsden (1992) which often lead students to adopt a surface approach:

1) Perceived need to recall or apply trivial knowledge

"Janet" offered an example of learning the law which illustrated this first element,

> ... it was almost like times-tables sometimes! ... that was literally how people studied! It was how I studied
>
> ... If you looked at the CANs, the notes that were produced and the flash-cards that people would write out. They would have the case name, the citation, and then they'd have 3 lines that was the *ratio decidendi* and if they got really ambitions they would have a couple of important *obiter* comments ... and professors would do this too, take this 150 page Supreme Court of Canada decision and boil it down into a flash-card!

An example related directly to the type of exam, was provided by "Lynne" who choose her approach to studying the material based on the method of assessment. "If it was a closed book exam we'd do more quizzing. If it was open book we'd do more actually reviewing the concepts and applying them."

2) Assessment methods which create anxiety

"Beatrice"

> (Law school) breeds that deep, deep insecurity in students. There's something really wrong there ... a part of that is the 100% final (exam) strategy ... it is a terrible thing to impose on people ... What that did to my learning strategy was I became almost paralyzed ... to say nervous wouldn't even begin to capture the feeling. I was so over-whelmed and stressed out by this insecurity about doing well academically, or just passing, that it would take me a good four to six weeks in each term to get my anxiety level down to a low enough level

> that I could study properly ... in the end, I think, this terrible anxiety is very counter-productive.

"Raymond"

> I had a friend, a very brilliant guy. He had A+ in undergrad because he wrote essays ... but the whole law school thing, he dropped out because of the whole exam thing and the whole pressure ... he actually failed a course, and he had never failed a course or failed anything in his life ... It just decimated him. There's casualties of any education system, I guess, but it's a shame when you lose great minds like that just because ... he just didn't know how to write these law exams.

The reaction of law students in the face of the intense pressures of exams was unfortunate even for those learners who were able to "succeed within the system, as the atmosphere of stress and anxiety has been shown to interfere with a quality education experience. According to Grant et.al. (1988),

> Surface approaches to learning appear to be common among students motivated by a fear of failure and learners tend to revert to ineffective surface approaches under conditions of high anxiety, such as tests and examinations. (p.145)

A surface approach nearly always leads to poorer quality learning outcomes including little understanding of the course material and only short-term recall of information (Smith et al.:1995).

3) Cynical or conflicting messages about rewards

"Timothy" - The most effective learning strategy that anyone got out of law school was how to get somebody's notes from the previous year so you didn't have to do any of the reading yourself ... I mean your job offers depend on your marks, and that's what everybody cared about. Nobody cared about what you knew, it's how much it looked like you knew." Child & Williams (1996) found that the sentiment expressed by "Timothy" was very common in higher education where learning has essentially become in their words a "mercenary activity."

> Students engage in learning for the sake of rewards (grades, praise, jobs, etc.) which are not intrinsic to the learning itself. The problem of mercenariness; seems to be endemic in education - particularly the education that is organized around classrooms. (p.32)

Child & Williams (1996) found that the problem resulted from a lack of legitimate student involvement in their personal learning due to systemic issues that have long plagued higher education. (Rousseau (1762) was cited by the authors where he noted that when students are expected to memorize knowledge, then through mimicry they will sell portions of it back to the instructor in exchange for rewards) Instructors were encouraged to actively engage the learner and several approaches were recommended to proactively address this issue. Student involvement cannot be forced by external rewards or punishments if the ultimate intent is to provide a quality learning experience. This was found to be true even in situations were the student keenly desires the external rewards that are being offered.

> Students are seldom personally and passionately involved in things which they feel essentially forced, cajoled, bribed, or threatened into doing, even if doing so gets them something they want (grades, jobs, recognition, etc.) (p.32)

4) Excessive amount of material in the curriculum

When one participant was asked if he knew anyone that managed to read all of the assigned materials, he answered in the affirmative, however the conclusion of his story indicated that there are legitimate fears on the part of students which motivate their decision to take a "surface" approach to learning:

> "Timothy" - "I knew a women in my class in first year (and I) had her study notes. She not only read everything, she read head-notes to the footnotes in the casebook."
>
> "Interviewer" - "I wonder where she is today?"
>
> "Timothy" - "Well apparently, she failed her first year"

For many participants, including "Raymond", law school was described as "a blur":

> What do I remember from law school? I don't know. I mean, it's sort of a big haze of thousands of pages. Nobody would be able to contain all that. It's all short-term memory, right? You just work your a-- off. You study, study, study, study, memorize all this stuff, spew it out, and forget it and move onto the next course. And that's the unfortunate thing, is even in law school, the things that I do remember are higher level courses where I had to write a paper ... or I had to create a statute ... It was more interesting to do that.

Smith et.al (1995) confirmed the perceptions of participants that "Students tend to take a surface approach when the workload is perceived to be heavy and where the assessment system is perceived to demand, reward or tolerate memorization ..." (p.24) In an article entitled, *Work-load and the quality of student learning*, Chambers (1992) found that until recently student work-load has been a neglected issue in the research literature. Recent research, however, has provided support for the argument that a reasonable work-load is a pre-condition of good studying and quality student learning. Participant responses in this study have many similarities to the findings of other studies referred to by Chambers:

> A summary of all this research reveals that students themselves believe they are taught most effectively (that is, learn best) when what they are taught is perceived as interesting, and relevant, is presented in a well-organized, clear and coherent way, openly and with enthusiasm, is assessed appropriately, and when there is not too much of it (Entwistle & Tait:1990) (emphasis added) (p.142)

In order to learn well students must have sufficient time to devote to their studies. Chambers (1992) found that it was simply not logical for teachers to over-burden students and demand more work than the student has the time to do. This simply creates conditions in which what was to be learned is likely to be unintelligible, and in which students cannot possibly learn well. "Having sufficient time to do the work required should be seen as a pre-condition of good learning, rather than just one among many conditions in which it may flourish" (p.145) After all, to take the argument to its logical conclusion, if students do not have the necessary time to learn then all discussion about what might constitute good learning is simply irrelevant.

5) Poor or absent feedback on progress

> Giving really helpful feedback on students' work is an equally essential commitment. (Ramsden:1992:p.99)

The lack of feed-back in law school was perceived to be particularly unsettling. In fact, several participants recommended that the law faculty make more of an effort to provide information to the student throughout the program. For example, "Raymond" stated:

> How they mark, I don't know, I never quite understood. I've never had any idea how they marked. I never knew what was more important, putting the name of the case down or putting the concept down or putting the facts and the ratio. I mean, no one ever explained this to me so I have no idea. All I know is that you do a three-hour exam and you get this mark at the other end.

The most serious criticism levelled by a participant was "Beatrice" who felt that she had been purposely kept "off balance" by the law faculty by this lack of feed-back. She found that it prevented her from ever adopting any particular learning strategy that she found effective:

> ... it seems to me part of the essence of law school is that you never really are allowed or supposed to have confidence in your learning strategy ... part of the law school experience is not being confident of your learning strategy, not being confident of your test-taking ability as a result.
>
> I mean, when I was in first year, the woman who placed first in our class over all people, came out of our property law final (exam), crying, convinced that she had failed. Now this is the woman who got virtually perfect marks in first year law school, who was so insecure about her learning strategy over the course of eight months that she believed that she had failed. Now, what does that tell you?

6) Lack of interest or background knowledge of subject matter

> Smith et. al. (1995) Good teaching is teaching which helps students to learn. It discourages the superficial approach to learning and

> encourages active engagement with the subject matter ... it encourages in the learner motivation to learn, desire to understand, perseverance, independence, a respect for the truth and a desire to pursue learning. (p.27)

When "Richard" was asked whether there were any other factors that influenced his teaching and learning experience at law school, he reflected that,

> ... if I could find something interesting in the course then that's going to help a lot. If it's something that makes me really think about a certain issue then it would probably stick in my mind a little bit more than some of the courses ... (where) I'd probably start nodding off.

When "Peggy" was asked the same question she commented that she remembered the students who asked a lot of questions and the different attitudes that professors took in responding to queries and class-room discussion. She found that some professors "... encouraged people to think about things rather than just go "through the moves" and memorize it." In contrast she recalled her first year criminal law class which she had thought would be full of ethical and moral issues to question and debate but she remembered only,

> ... the teacher just cutting it off and saying, "Well, we don't have time to discuss that now.", and off you go to the next chapter. Well, I mean, people were wanting to discuss ... all those grey areas - about criminal responsibility and the death penalty ... social issues that I thought were interesting ... to study the way that decisions had been made and why. But that didn't seem to be "stuff" that was on the exam or in the text-book.

Participant responses and the research literature cited have both focused on the active role of the learner. The instructor, however, can have an important influence on the student's intrinsic motivation to learn, particularly where greater student participation and responsibility is encouraged. Many participants stated that they found it particularly helpful when the professor was able to relate the material in class to their own experiences or include practical real-life examples of the legal principles being taught. McKeachie et. al (1986) found that,

> Among the most important characteristics of effective teachers were high levels of interaction with students outside the classroom, striving

> to make courses interesting, using frequent examples and analogies in teaching, referring to contemporary issues and relating content to other fields of study. (p.83)

ADDITIONAL LEARNING STRATEGIES: STUDY GROUPS

Many participants referred to study groups as being a very effective approach to learning. According to "Lynne", she found very little that was helpful except meeting with other students and discussing cases and preparing for exams. "I think I tried just about everything ... one of the things that I found particularly effective (was) I started working in study groups when I was in first year ... ".

"Jonathan" found that study groups were both a tool for learning and a means for developing necessary skills such as legal analysis,

> Study groups, I found to be quite useful ... they would get old exams and everybody would be given a question and then you would present your answer, and you would be subject to the critique of 4 or 5 people who, by the time they'd finished their critique you would have a pretty good sense of a good answer for that exam question ... (and) you were forced to critique other peoples answer. That's a good way for you to sharpen your analytical skills.

Participation in study groups as a learning approach were found in the research literature to be beneficial for two reasons:

1) It has been found that higher education classrooms which are organized in more cooperative ways can increase student motivation and lessen the anxiety of students (McKeachie:1986:p.59) Presumably this was equally true in those situations where the students themselves created the participatory and collaborative learning environment; and

2) Students teaching other students has been found to be a very effective learning strategy. According to McKeachie et. al (1986) "There is a wealth of evidence that peer teaching is extremely effective for a wide range of goals, content, and students of different levels and personalities." (p.63)

CURRICULUM FOCUS: ACADEMIC VERSUS PRACTICAL

One of the key issues in legal education has been the two competing aims of providing law students with the traditional broad-based academic university education and yet also giving them the necessary training for their future professional role. In Canada the law faculty has relied to some extent on the division of labour between the university and the one year of articling experience which is required following graduation if the individual intends to become a practicing lawyer. During this one year apprenticeship, the student ideally learns the practical aspects of lawyering in a work environment under the supervision of a senior lawyer. There has been constant and increasing pressure upon the law faculties in Canada to reconsider this divided approach to learning which separates the academic acquisition of theory from the practical experience and skills necessary to practice law. The debate has become more pronounced in recent years as legal education becomes increasingly academic in nature.

> Law schools have left the aegis of the legal profession to become full-fledged faculties on the university campus. Formerly centred on practical training of the legal apprentice, the study of law is now conceived of as an intellectual discipline, warranting a central place in the scholarly community. This is the most significant event in the transformation of Canadian legal education. But was this a change for the better or for the worse? (Weiler (Gold(ed.):1982:p.3)

According to Arthur (1985) the result has been that, "law professors and law students (have) come to think and talk in ways more in keeping with the conventions of higher education than with those of the practicing bar" (Matas & McCawley (eds) Arthur:1985 at 163). The reason for the concern relates back to the outcomes of a legal education. If law schools are to prepare students, or the majority of students, to ultimately become lawyers then it is necessary to consider whether the present system supports the transition to the profession. Weiler (Gold(ed):1982) drew on the concerns of practicing lawyers who believe that the ivory tower is not a setting in which to train people for the real world of legal practice,

> ... a law school may be a fine place in which to turn out the occasional legal Pericles - equipped for legislating and judging - but it cannot do a good enough job in turning out the legal plumber who daily serves the citizen-client with a legal problem. (p.3)

Yet there were also critics on the other side of the debate who believe that law faculties are in danger of becoming too practice-oriented. They argue that the law schools have lost their true identity as members of the intellectual community of the university by tailoring the curriculum to the perceived needs of the practicing profession. (Matas & McCawley (eds) Clark:1985 at 222)

Unfortunately, the result of these dual demands on legal education has meant that it is often difficult to address any critical issue relating to legal education in Canada without falling into the rhetoric of one camp or the other - an "Academic" versus "Practical" education in law. This has been exacerbated by the lack of formal study into legal education in Canada. Little that has been recommended in terms of improving legal education is grounded in objective research and many of the books and articles which allege to tackle the issue of "quality" legal education, particularly in Canada are simply the product of unsubstantiated opinion.

As the struggle between academic versus professional orientation appeared part of the intrinsic character of legal education, it was considered necessary to address this issue in determining what constituted a "quality" legal education experience at law school. While there has been little objective research in Canada, there have been many American studies concerning the appropriate balance of legal education in terms of theory versus practice since the turn of the century. (Stevens:1983;MacCrate:1992)

In the United States which has Bar Examinations but does not have a required year of articles, the pressure on law schools to adopt a more practical component has been intense. Gradually legal clinics and work-experience have been offered at most law schools as an option. A recent report, *Narrowing the Gap* (MacCrate:1992), recommended that there be even more of an emphasis on lawyering skills in legal education and that the university has a key role to play. The reaction has been mixed with some concerned that the proposals contained in the report will undermine the good work that the law faculties do now in teaching the traditional skills of legal analysis and research. Others welcome the report as a long-awaited confirmation that law schools have not been as fully involved as they should be in the over-all transition of the student to lawyer.

One of the primary contributions of the MacCrate report (1992) however was the complete list of values, skills and attitudes considered necessary to be an effective lawyer and serve clients well. No equivalent list of substantive (content) knowledge was developed by the committee as this was considered unnecessary for two reasons:

1) the content of substantive law was unique to the given area of practice; and
2) there was an underlying belief that in respect to substantive knowledge little guidance was required by the law faculties as this was a function that was already being performed well.

There has been little reaction to this report in Canada. At the present time, while there have been some developments in terms of offering clinical courses, most of these legal clinics are simply appended to existing programs as options. In fact, a few participants in this study discussed how difficult it was to get into these more practical courses. This was an interesting contrast to the MacCrate Report (1992) which stated that students should not only have the option of practical courses, but they should be entitled to participate in clinical courses as a right.

INSTRUCTOR FOCUS: ACADEMIC FACULTY VERSUS PRACTITIONERS

1) Focus Group #1

The issue of an instructors style of teaching being tied to whether or not the person practiced law was raised by participants. There was a mixed reaction from the group on this issue and as one individual pointed out it would be difficult to determine with any accuracy as most practitioners were hired by the law faculty to teach the more practice-oriented courses. Another participant noted, however, that there was a distinct difference in the way that cases were presented when a practicing lawyer instructed the course, and that this difference persisted even when the subject being taught was substantive law or legal theory.

The majority of participants in Focus Group #1, did agree, however, that law school should provide students with the opportunity to learn practical skills and knowledge within a clinical setting. This was stated to be both practical and helpful for the student. An individual who strongly agreed with this premise, stated that everyone should have experiences throughout law school that give context to the legal concepts which are being taught.

2) Focus Group #2

During the session participants were asked if they noticed any differences in the approach taken by instructors who were practicing lawyers as opposed to full-time faculty members. From a learner's perspective, this question generated very few comments other than the fact that practitioners provided, "... a more practical approach because they are immersed in the day to day practice of law." ("Mary") In fact, most participants in Focus Group #2 seemed in agreement that effective instructors shared common characteristics regardless of their background or orientation to the course.

The more animated debate was in respect to whether the course of studies should be altered to incorporate a mandatory practice-oriented or clinical component. This was much more controversial and was discussed at length by participants. "Ella" proposed that law schools should offer only 2 years of academic study which was primarily theory and then the final year could be a clinical year that was,

> ... very practical oriented ... this is what you do, here's how. There are some law schools in Australia that do that and I think that's really a neat idea and I think it would really benefit everyone before you do your articles to have that type of year.

"Kent" and "Jake" agreed with "Ella" that cutting back the traditional law school program to two years would be beneficial. According to "Kent", "... (you) certainly get enough theory in two years!" "Mary" was also in partial agreement with this proposal although she felt that students should have the choice,

> I'm sort of torn, I'm of two minds about that, on the one hand I think they would have graduates who are better lawyers if they did something like that (one year practicum) because there are lots of things that you have no clue about when you graduate, that would be useful to know ... but on the other hand I also see law as having a valid purpose for the faculty promoting ... a more theoretical perspective.

"Mary", therefore proposed that there be two "streams" in law school where students could choose either a practice oriented program if they planned to become a lawyer, or an exclusively academic program for those who planned to continue on to a Masters degree.

"Brad" thought that there are many years to learn the practical aspect of law and there are only three years for law school, so he felt that the academic focus of the program was not a problem. "Kent", while he stated he didn't necessarily disagree with Brad, countered that he personally was better able to learn theory in law school when it was combined with the opportunity to do some practical law that required him to learn the theory.

3) One-to-One Interviews

When participants were asked if they noticed a difference between full-time academic instructors and practitioners (generally part-time) many participants noted that there were indeed differences. Again, some participants commented that this was partly due to the subject matter of the course as practitioners were often teaching very practice oriented courses such as Civil or Criminal Procedure. Most of the substantive law courses which provided a theoretical over-view of a legal area were taught by full-time faculty members. Yet the comments of participants indicated that there was a difference in the way that practitioners approached the course materials and the students, even when the practitioner taught a substantive law course.

When the participants were asked if they had a preference to the type of instructor, the results were very interesting. Of the sixteen participants who answered this question only two participants found that the quality of instruction was unrelated to whether the individual practiced law or was a full-time faculty member. "Penny", one of the two, stated that, "... a good professor was a good professor no matter what their focus, (or) whether they were a true academic or practitioner." "Mable" agreed, "As long as the professor was really interested in what they were teaching, I learned a lot from them." Although she recognized that, "The nature of what they taught was different ...".

Five participants stated that they preferred practitioners and found them to be better instructors. An equal number of participants (5) commented that the two types of instructors, each had their strengths and weaknesses which differed depending upon whether the instructor was a practitioner or an academic. These participants believed that it was best to have both types of instructors. Finally, three participants commented that the very best instructors were those who were able to demonstrate both an academic (theoretical) and practitioner (practical) perspective. "Jonathan" commented, however, that these individuals were quite rare. No participant in the one-to-one interviews indicated that they preferred instructors who were full-time academics over practitioners as a rule.

The following Table 3.1 sets out the summarized responses of the participants in the one-to-one interviews who had commented or compared instructors who were academic faculty as opposed to practitioners teaching a course in law. This question was only pursued with those participants who raised the issue in the interviews. Four individuals: Peggy, Raymond, Natalie, and Victor were not included in the following Table 3.1, as they were not asked whether they perceived any difference between the two types of instructors.

Table 3.1. Academic and Practitioner Approach to Teaching - Strengths and Weaknesses sets out the summary of participant comments in respect to the apparent differences of the approach taken by full-time academic staff versus practicing lawyers who taught law classes.

TABLE 3.1: Academic and Practitioner Approach to Teaching - Strengths and Weaknesses as Identified by One-to-One Interview Participant Responses.

Participant	**Traits of Academic Instructor:**	**Traits of Practitioner Instructor:**
Heather (*)		Results oriented - More policy reasons
Brian (*)		Concise and organized lecture style. Able to apply law to real fact situations - law came alive!
Peter (*)		Flavour of practice through War stories.
Richard (*)	More history & theory	War Story - Practical Focus on law.
Casey	*I think both types of instructors are bad, just in different ways.*	Both types of instructors are bad, but I found one practitioner who was able to "marry" practice and theory
Janet (***)	*Academics had no sense of application - only abstract.*	Interesting - had practical knowledge
Penny (****)		
Benjamin (*)		Teaching more meaningful because it was in context.
Dennis (**)	Provided legal theory *Intellectually pretentious*	Practical - "This is what you do and how to do it"
Jonathan (***)		

Table 3.1 (cont)	**Traits of Academic Instructor:**	**Traits of Practitioner Instructor:**
Beatrice (****)	Noted that many full-time academics actually practiced law "on the side."	Able to give examples from practice although not sure that this was important but made course more interesting
Lynne (***)		Practice oriented - War stories entertaining and gave credibility.
Mable (**)		More procedure
Charles (*)		War stories were good. Able to relate learning to practice.
George (**)	Better for substantive subject areas.	Better for practical subjects.
Timothy (**)		Practical - but did not teach academic subjects *Hard to contact*

NOTE: Italics were used to indicate negative comments or criticism of the common characteristics a particular instructor type.
NOTE WHEN REVIEWING THE TABLE: The number of asterisks by the name of the participant indicates an over-all assessment:

Practitioners were the best (# of participants)	= * (5)
Each was different / good for different courses	= ** (5)
Professor who had both backgrounds was the best	= *** (3)
Good Professor was good regardless of background	= **** (2)

In *Narrowing the Gap - the MacCrate Report* (1992) recommended that full-time academic faculty staff members who are readily accessible to students be the preferable choice for instructors if the practical component of legal education was combined with course instruction. These full-time academics, however, must demonstrate a dedicated approach to practice-oriented teaching which included a "... commitment to teaching skills, experience training, knowledge of the growing literature of clinical scholarship, an ability to contribute to that scholarship, and reflection and attention to educational theory ... " (p. 245)

> In order to meet the challenge of making skills instruction broadly available, law schools should assign primary responsibility for instruction in professional skills and values to permanent full-time faculty who can devote the time and expertise to teaching, and developing new methods of teaching skills to law students. (p.245)

Yet the use of practitioners as instructors should be continued according to the MacCrate Report (1992),

> In addition, law schools should continue to make appropriate use of skilled and experienced practicing lawyers and judges in professional skills and values instruction ... on a part-time basis (as this) adds to (the) law faculties' knowledge of practice and to the practitioner's understanding of legal education. (p.245-246)

There were many different reasons given for why a practitioner was generally a more effective instructor. "Heather" stated that they tended to be more policy oriented and provided a practical delivery. "Brian" thought that practitioners were concise, very organized in lecture style and they were able to apply law to real fact situations. He also mentioned the use of "War Stories" which were raised by four other individuals using exactly the same terminology. ("Peter"/"Charles"/"Benjamin" and "Lynne"). Other participants referred indirectly to these stories by referring to the benefits of using real-life illustrations in classroom instruction. They stated that it gives the "flavour of practice" and students are better able to then relate the learning of law to practical situations in the future. "Benjamin" also thought that practitioners were able to make the teaching more meaningful because it was in context and the instructors were better able to answer questions in class particularly in respect to specific procedural or practical enquiries.

Professors at the Albany Law School have set up a first year course entitled: Introduction to Lawyering, which attempts to incorporate the teaching of practical and theoretical aspects of law at the same time. The course simulates a legal file from the beginning (first interview) to the end (trial) including research, several drafting exercises (interrogatories, affidavits, letter to client) and an attempt at negotiation of the issues. The professors of this course report that students are highly enthusiastic about this approach. They seem to acquire through the simulation, a better understanding of, "... the life of a case from its inception, before it is sanitized and compartmentalized within a casebook devoted to discrete law subjects". (Maurer & Mischler: 1994:p.101).

In support of their premise that it is important to, "integrate theory with practice - substance with skills - from the beginning of law school," they cite Schneider:

> ... (the) dichotomy between theory and practice, doctrine and skills, is false - it must be rejected by both clinical and non-clinical teachers and leadership must be given to the project of eradicating these distinctions by deans ... The intellectual process of connecting theory and practice must be a major focus of legal education.
>
> Although many academics believe that a law school education should focus on doctrine and theory, and that practice skills can be learned after graduation, legal educators are in a unique position to instill values and influence budding professionals at an impressionable time of their lives. Law students are particularly receptive to new ideas in the first year of law school. (Maurer & Mischler: 1994)

In discussing traditional legal education, Spiegelman (1988), noted the frustration of first-year students when they explored the fixed appeal court records and could take no part in the resolution of the issues, "... the role of the student is that of a detached observer whose reasoning is an internal, self-contained process that manipulates plastic principles to fit predetermined facts." (Spiegelman: 1988 at 249)

Both Maurer & Mischler (1994) and Spiegelman (1988) stressed the importance of first year law school. There was certainly a similar consensus in Focus Group #2 as the first year of law was perceived to be most consequential year in law school. "Jake" attested that, "I think we learned about 95% of stuff in the first year ... " Another participant stated that most students learned the basics in first year and "Mary" commented that "... after first year it was much less important to go to class." One of the reasons that the first year was perceived to be critical was that most students learned the key skills taught at law school, such as the study of cases and the fundamental "building blocks" of substantive law during that year.

The statements of the participants confirm the observations of other legal educators that law school has not utilized the second and third year of law to the best advantage.

(Rowles:1981) "While diagnoses of the ills of current legal education differ in critical respects, there does seem to be a general consensus as to two central points. First, the initial year of law school, is by and large a successful affair:

> The first year remains, as before, the critical time in which the student learns to "think like a lawyer". Second, the remaining two years in law school are dull for many students, and can certainly be improved. (p.375)

One possibility for improvement may be the incorporation of a more practical component to the second and third year of law school. This would provide students with more specialized knowledge, skills and values instruction and use the time to full advantage. This could assist students in their transition from law school to the practice of law or alternate career.

OTHER FACTORS AFFECTING THE LEARNING EXPERIENCE

TABLE 3.2. One-to-One Interview Participants Summarized Responses Identifying Other Factors Affecting Their Learning Experience

Question: Were there any other factors that affected your law school experience?

Name	**Any other factors effect teaching and learning?**
Heather	SLA - First chance to apply what she learned. Mooting. Preferred papers over exams.
Peggy	People in class who asked questions. No discussion of ethical/moral/social issues. Formed friendships in criminal clinic other-wise did not associate with other law students.
Brian	Cooperation despite competition. Old exams. Helped each other.
Peter	Socratic method good in smaller classrooms.
Richard	Needed something of interest in class to hold attention. Conceptual frame-work was important. Time of class (AM/PM) had an impact.

Table 3.2 (cont)	**Any other factors effect teaching and learning?**
Victor	Progressive law school which attracted certain type of faculty and students. Some people felt that they could not express their opinions because of the political climate. Good faculty in (his) area of practice. Law school was more expensive than he thought it would be so had to work part-time. Smaller classes were better.
Casey	Stated that age affected learning (young student - only 2 years undergrad). Still maturing & most other students were much older.
Janet	SLA - Chance to see how law applied in real cases rather than just in Ivory Tower - Law school was primarily rote memorization.
Penny	Profs who intimidated resulted in difficulty in concentrating (focusing on learning). Good profs were interesting and enjoyable.
Benjamin	Class size - learned more in small classes - more participation and less rote memorization. SLA - real people with real problems. Applied the law - very meaningful.
Dennis	Didn't get along with law students. Friendships were all pre-law.
Jonathan	Personally motivated to do well and get high marks. Wanted good articles and therefore aimed for Dean's List.
Raymond	N/A
Beatrice	Became very insecure about academic skills (victimized by pressure and lack of feed-back) Found law school undermined good learning strategies acquired prior to law school - became superstitious and regimented about study practices. Also appalled by how group dynamics and social culture changed after marks were released in first term (top of the marks hierarchy)
Lynne	Need to be self-directed. Need to cope with the volume of material. Animated profs who encouraged discussion. Small group size (beneficial).
Mable	N/A
Natalie	Stress. Evaluation system affected motivation and increased stress. For some students, finances were a big issue.

Table 3.2 (cont.)	**Any other factors effect teaching and learning? (cont.)**
Carl	Pure enjoyment - if liked course then learned more but did not necessarily mean a better mark at end.
George	Might have got more out of law school if took break between under-grad and law. Law school would be better for people with some work experience.
Timothy	Some people picked classes based upon who was in them because of the bell curve. Example of friend who dropped a course because there were too many high achievers in the class.

These comments ranged over a spectrum of concerns. Specific issues raised included smaller classes, benefits of SLA experience, intrinsic interest in the subject matter, methods of evaluation (marks) and the impact in terms of stress and finally connection to other students through friendships and working relationships. These factors have already been covered in some detail in the paper or will be discussed in greater depth in Chapter 4. Two areas which will be considered briefly at this point as they were not covered elsewhere in the paper are:

1) Expense or the financial cost of going to law school; and,
2) mature students experience of law school.

1) Expense of Law School:

There was a recommendation made by one of the participants that universities in Canada should consider allowing part-time studies in law. According to this participant while it may now be a possibility in at least one University in Western Canada this should be expanded as an option at more law faculties. She recommended that students take as much time as possible to complete their program of legal study as she believed that they would graduate with a better understanding of the law and be subject to less pressure.

In addition, more than one participant referred to the fact that they were forced to work part-time throughout law school. For example, "Peter" indicated that he worked 30 hours a week throughout law school. This certainly placed these students under additional stress considering the overwhelming work-load in law school. Participants who reported that they worked throughout law school also tended to be less connected with the more informal or social aspects of law school although that was not always the case. The work was a necessity for these students as most indicated that they either were supporting a family or were without the means to attend university full-time for 3 years without some financial income. There are few bursaries or scholarships available in Canada that are large enough to assist these students in any meaningful way.

2) Mature Students:

Some participants commented on the benefits of taking a break between the undergraduate degree and going to law school. Those who did return to law school after engaging in another career or life experience through travel generally found that they were more focused and had clearer expectations about what they thought the outcomes of law school would be. Other responses of participants in this study indicated that there was some evidence for the proposition that law school may be a very different experience for the "mature student." While not a focal point of this research, MacFarlane (1991) has provided support for this premise through a thorough analysis of the adult learners law school experience in her unpublished PhD. thesis.

SOCRATIC METHOD

There are two methods of instruction which were considered by the participants and the research to be specific to law school: the Socratic and case law method of teaching law.

Morgan (1989) defined the Socratic method as, "... a form of teacher-student interaction in which the teacher vigorously cross-questions a student on her or his understanding of a particular case or legal principle. The vast majority of the interaction occurs between teacher and student (rather than student and student) and is teacher-initiated", (see also Peairs (1960) for a more detailed description of variation in the use of the Socratic method). One of the best known representations of the Socratic method was found in the movie the *Paper Chase* where the instructor introduced the method of teaching to a class of first year students in Contracts at Harvard Law School:

> We use the Socratic method here. I call on you - ask you a question and you answer it. Why don't I just give you a lecture. Because through my questions you learn to teach yourselves.
>
> Through this method of, "Questioning - Answering, Questioning - Answering" we seek to develop in you the ability to analyze that vast complex of facts that constitutes the relationships of members of a given society. Questioning and Answering. At times you may feel that you have found the correct answer. I assure you that this is a total delusion on your part. You will never find the correct, absolute and final answer.
>
> In my classroom there is always another question, another question to follow your answer ... You teach yourselves the law, but I train your mind.
>
> Professor Kingsfield (Paper Chase - 20th Century-Fox, 1973)

According to Hantzis (1988) the "Kingsfield model" has come to personify the Socratic method. The Hollywood version, however, was not necessarily the method or style of this form of teaching that was supported by the majority of instructors. In fact, in recent years it has been perceived as a "male model" of instruction which was not conducive to learning, particularly for female students. The Socratic method has been criticized strongly by feminist legal scholars. Hantzis (1988) commented that,

> The Kingsfield image is, one hopes, frightfully out of date. It is not just that the picture is exclusively male but that his classroom is awash with silent tension ... surely legal education has better teachers than

> Kingsfield - teachers who favour humour over tension, policy over doctrine and encouragement and instruction over competition and ridicule. (p.156)

A brief history of the development and use of the Socratic and case method of teaching would not be amiss as these techniques were developed as a unique educational approach, specifically aimed at teaching law. According to Levine and Saunders (1993), in Canada, similar to British and American legal education, there was a move to divorce the teaching of theory from the actual practice of law. In the 1870's

> ...the case method was introduced and refined at Harvard Law School by Christopher Columbus Langdell, who believed that the scientific method could be adapted as an instructional model for legal education. The case method was directed by logic and systematic study of precedent as a means of rationally discovering legal rules. Langdell and other proponents of the case method viewed law as an empirical science ... (p.111)

The standardization of legal education in North America was predominantly affected by the approach that Langdell introduced. In the words of Schlegel (1985),

> In advocating that law was a scientific discipline worthy of study, Langdell provided American law schools with an "intellectual Model-T", a wholly complete, conceptually unified universe to put in the mind of the standard student. (p.323)

In fact, for most legal educators, the conception of teaching law came to mean a combination of the Socratic method complemented by a case book comprised of appellate decisions. Included as part of this approach was an underlying premise that private law was more important than public law. Further, all political and economic theory was stripped away so that law could appear as a system of coherent, stable, certain and predictable rules which governed the actions of people in society. In other words, law became a "science."

The reaction of students to this fundamental change in the way that law was taught was not particularly positive. According to D'Amato (1986),

> When Langdell introduced the Socratic method in 1870, at a time when all the other professors at Harvard lectured to the students, student attendance in his course rapidly declined and there was great discontent with his teaching method. (p.474)

Students still find the Socratic method of instruction disconcerting and it can leave students feeling mentally insecure rather than intellectually challenged. Students have found the approach particularly threatening if the class room experience of instructor - student debate was confrontational rather than instructive in nature. D'Amato (1986) who supports the use of the Socratic method, was critical of students who do not appreciate the challenge that is demanded in learning law. He contended that the Socratic method was a superior teaching tool which was necessary in law school to instruct students in thinking about problems in completely different ways. Yet he recognized that the Socratic method encompassed both good and bad methods. He found that;

> ... in the Good Socratic method the answer is not implicit in, or deductively derivable from, the question. Instead, the professor "plugs in" to the students's mental wavelength, making sure, by question-and-answer, that the student's mind is precisely at the point where the existing mental pathways will lead to the wrong answer.
>
> The professor's challenge is to the pathways, not to the "bottom line" conclusion; the point is not to instill in the student a new bit of substantive memory but rather to force the student to shake up existing mental K-lines (thought processes) so as to learn how to arrive at a better solution to the professor's question-puzzle. This technique actually leads to mental growth by the multiplication of path-ways of thinking. (p.466)

He stated that the reason this method has been so disparaged by students, is that it forces them to learn and that learning or growth of the mind requires effort, risk and insecurity all of which may appear as unpleasant to the learner. According to D'Amato (1986),

> They think that learning law is a matter of memorization, recall, and regurgitation - that is what college learning was, and how they got their

> good grades in college, so why should law school be any different. (p.474)

Participants in this study who had experienced this method of teaching confirmed D'Amato's observation as they tended to be critical of the socratic method. Yet, while most of the participants would have agreed marks are based on "memorization, recall and regurgitation," this was found to be the case whether or not the socratic method was used. Other reasons for not liking the method do not relate to student laziness but rather to fear of failure as a result of work over-load and time pressures which precluded adequate preparation for class.

There has been no research evidence to support that this approach was superior as a teaching method at law school. According to Teich (1986) in an article entitled, "Research on American law teaching; Is there a case against the case system?", studies to date have not been definitive and he recommends more research in this area. If this teaching method has the potential to impact negatively upon the student then careful consideration should be given to the potential benefits and draw-backs before justifying re-introduction of this method to the classroom. In addition, all steps should be taken to engage the learner without the more negative aspects of this approach which include intimidation, sarcasm and teacher-focused orientation to classroom discussion.

When participants were asked what their experience with the socratic method was, there were several negative comments, including the belief that it should never be used:

> "Ella" - I thought that it was awful, I hated it!"
>
> "Sara" - "I thought that the best professors didn't really use it."
>
> "Jake" - The socratic method is too difficult when you have so many people that have to learn at the same time, it's too time consuming. As, "Sara" noted, "Socrates wasn't really teaching 150 people in a lecture theatre."

Other participants provided only mixed support with recommendations on how the benefits of the method might be achieved in other ways. Advocacy skills for example might be developed in classes where students had time to prepare, or knew that they were to be called upon during class in advance. Others stated that this approach might be an option for those who sought to develop specific skill, such as learning to "think on your feet" which may be valuable for those who aspire to practice law as a court-room barrister.

The overwhelming majority of participants rarely or never had experienced the Socratic method in law school. Ironically, the most positive comments about the Socratic method came from the more recent graduates who had never been taught by a professor using this approach. While it has been true for many years that, "The lecture hall remains the center of education at law school." (Stuesser:1989:p.55) there appears to be an increasing trend to move away from more interactive teaching methods, possibly as a consequence of instructors attempting to cover the increasing amount of information in a given subject.

The fact that it was the participants who had the least exposure to the Socratic method that professed they would have preferred this approach was not an entirely surprising finding, given the research by MacFarlane.

In an article which summarized the findings of his research, entitled, "Students and practicing lawyers identify ideal law professor," MacFarlane (1986) stated that,

> ... one of students' ideal personae, the Socratic trainer, follows closely these professors' rhetoric about the value of the socratic method. Importantly, however, this personae is idealized strongly by entering students who have never experienced a law school class, and it declines steadily to almost nothing among third-year students.
>
> ... apparently the students' ideal is a quickly fading product of prior impressions from unknown sources ... (they) may have read or seen fictional accounts of law school. Their ideal was a reality, but the reality changes when it encounters the law school experience. (p.103)

What MacFarlane (1986) discovered was more in keeping with the research in adult and higher education generally, that, "In fact a consensus among all personae is that a teacher should use an accepting and encouraging style in the classroom." (p.104) This was the one characteristic upon which both practitioners and students agreed according to the MacFarlane study.

METHODS OF EVALUATION

Focus Group #1 - Members of this group identified the whole issue of student assessment as being critical to the consideration of a quality legal education. Marks have a profound effect upon students in the highly competitive environment of law school. This was reflected in the earlier story related in Focus Group #1 of the individual who "broke" under the strain of evaluation and become violent. The group members were somewhat sympathetic to his plight and similarly recalled their own personal experiences which one person termed the "pain and glory" of law school marks.

In Focus Group #2, one of the clearest recommendations, was for the law faculty to abolish 100% final examinations. It was thought to be poor method of evaluating learning and it exerted too much pressure on the student for a very short concentrated period of time. It also encouraged a particular style of learning. In the context of 100% final exams, one participant commented that there were, "... a lot of people who got good marks by learning to write a good law school exam ... ", and "Greg" stated that, "I can't imagine why they should stay with 100% finals except to minimize work for professors." "Brad" commented that "There's no feed-back at all! You have no ideas what the answers were." and the group unanimously agreed with his analysis.

Only one of the participants, "Dona" commented that marks were immaterial to her legal education experience and she thought that this was probably due to the fact that she was older when she went back to law school. "I had no problem with the evaluation system because what "they" thought really didn't matter to me. What mattered to me is what I came out with learning." In response, "Greg" agreed and said that while that wasn't his attitude while he was in law school, that was how he feels now. "Looking back on law school, I think, Oh well, I mean as long as I learned something, who cares about the marks ...".

Other members in the group, however, pointed out that marks can have a long-term impact on some individuals, particularly in terms of future academic pursuits and job opportunities. As "Mary" explained, "... grades can sure have an impact on your career after, even outside of academic circles, depending upon what kind of articling position you were looking for". Despite the potential of marks to influence future career opportunities, it was interesting to note that "Mary" had not discovered any correlation between law school marks received and suitability for practice. In fact, she reflected that, "I found it very interesting when I graduated that ... the best practitioners in my area were people who were not particularly distinguished in their law school years. Yet there was no question that they were excellent, excellent lawyers".

One-to-One Interview Responses:

TABLE 3.3 Summarized Comments of Interview Participants on Marks and Method of Evaluation, sets out the responses of participants in the one-to-one interviews who responded to the questions about the marking systems and methods of evaluation used in law school. Of particular interest was the general sense that marks did NOT reflect the individuals learning in a particular course. Comments made by participants in respect to this issue are in bold print:

What comments do you have on the marking system and methods of evaluation used at law school?

Did the marks that you received in a particular class accurately reflect your learning? *(Responses in Bold)*

NOTE: (*) placed by participants who found that there was a correlation between the mark received in a class and their learning or mastery of the course material.

TABLE 3.3 Summarized Comments of Interview Participants on Marks and Methods of Evaluation

Name	Marks and Evaluation
Heather	100% finals are not good. Need more practical methods (i.e. mock chambers) on giving feed-back. Task should be related to subject. **No correlation between marks received and learning.**
Peggy	Pretty good. Never really thought about it. Don't know if it could be done any differently. **Marks and learning is unpredictable.**
Brian	Problem with the bell-curve - requires that a certain % of people fail. **Marks do not reflect learning.**
Peter	Difficult to understand marking system. Simply a function of knowing "how to" write exams. **Marks did not reflect his own knowledge of a topic.**
Richard	Frustrating. Not sure how things were marked. Problem with the bell curve. **No correlation - only reflects ability to spout off in 2 hours.**
Victor (*)	Fair enough. Ranking great for those at the top but is discouraging for those at the bottom. **There was a correlation - but some profs marked too subjectively** - gave opinion rather than quality.
Casey	Totally arbitrary. Worked extremely hard and then began to work less and less and marks went up slightly. No matter what effort made in law school it didn't make a difference. Don't think courses should be graded on a curve. **Marks not an accurate reflection of learning in course.**
Janet	Not a huge issue. Type "A" people took a huge ego beating. Caused anxiety and frustration. System of marking did not reflect knowledge. **No correlation between marks and what was learned - did not reflect learning but ability to memorize.**
Penny	Extremely stressful and frightening. Better to have more testing throughout the year and not 100% finals. Thought that one failure would mean the end of her career. **No huge correlation between marks and learning.**
Benjamin	Some profs were tough markers and others were easy. The system of 100% grading did not make a big difference. **Some correlation.**

Table 3.3 (cont)	**Marks and Evaluation (cont.)**
Dennis	Was a "mystery." Did well when liked a course and even in some courses that he didn't like. 100% finals were okay particularly when you didn't go to class. **No correlation between marks and learning as stopped learning after first year.**
Jonathan (*)	Anonymous marking was a good system. Marking on the curve meant that you were not sure how you did which could be nerve-wracking. **There was a correlation between what was taught and marks.**
Raymond	100% finals - never understood how these were marked and there was never any feed-back. **There was no correlation between marks and what was learned in a course.** Papers were more reflective.
Beatrice	100% finals had terrible impact on people and did NOT evaluate true ability. Anxiety caused by exams and lack of feed-back impacted on learning. Very stressful! Marks determined social standing and promoted an extremely competitive environment. **Not a good correlation. Marks actually discouraged real academic inquiry. Only got good marks for giving back what professor wanted, real learning was not important.**
Lynne (*)	Unfortunate if 100% exams used because not the best indicator of ability. Should be alternatives. **Generally marks correlate with learning.**
Mable	Always baffled by marks. Personally don't like exams - prefer papers. Bell curve does not encourage supportive learning environment. **Marks are not an indication of how much is learned.**
Natalie (*)	Bell curve is unfortunate and 100% finals are a "crap shoot." **There is about a 70% correlation between learning and marks received.**
Charles	Giving marks is useless - everyone passes. 100% exam is not representative of learning. Possibly a take-home exam would be more indicative. **There is no correlation between learning and marks received.**
George (*)	Paper courses meant that there was less cramming at the end of term. **With one exception marks were a fair reflection of what was learned.**
Timothy	100% finals provide the type of pressure that is appropriate in training to be a lawyer. But does not accurately reflect what you know.

Turow (1977) "One of the clearest messages that emerged to me as a member of the first-year class ... (was) the paramount importance of grades. During the first weeks of school, I had thought that our marks were used only to measure off the lofty types fit for Law Review. but ... it became apparent to me and my classmates that grades were a kind of tag and weight fastened to you by the faculty which determined exactly how high in the legal world you were going to rise at graduation. (p.91)

"Beatrice" confirmed that this was the situation she had experienced in law school. She recalled that marks were considered so important by the majority of students that there actually developed a phenomenon she termed, "mark groupies":

> ... the hierarchy that law school creates directly influences the dynamics (of teaching and learning) ... I was fascinated and appalled at the way the class dynamics changed and the way the class stratified after the first round of marks came out. I didn't think that grown adults could be such groupies of the students who got excellent marks ... there were these sort of fan clubs formed around these students that formed the top of the marks hierarchy.

Her final comment on the marking system and the ensuing social culture of law school was that it may have felt, "... good for a select few people who feel very included, and very validated by it. ... (but for others) it is either neutral or has a negative impact on many law students. Or else they opt out, particularly older students will just opt out of the law school culture."

ADVICE TO FACULTY

The following question was developed for the one-to-one interviews after the completion of both focus groups. It was:

> **What would you say if you were talking to the faculty at your law school today?**

The question was used in the one-to-one interviews as a probe following the query about the participants opinions on the improvement of legal education generally. The question helped to personalize the responses. The participants were mixed in their answers with two participants providing very positive comments while three participants gave very negative feed-back to their faculty. As an interesting contrast to the original break-down on practitioners versus full-time academics, five participants would have liked their professors to have been more practical. There were no requests, however, for professors to have taken a more theoretical approach. "Jonathan" continued to promote the idea that each instructor has strengths and the way to improve legal education was by professors addressing their short-comings particularly in respect to finding the appropriate balance of theory and practice. "Jonathan" stated,

> Don't forget that we're not pure academics, that we have to go out there and practice. So for the academics, those academically inclined, I'd say, "Don't forget the practical context of the law!" and for those who have an over-emphasis on the practical, I'd say, "Don't forget that we are also dealing with an academic structure in the law! ... try to find that balance.

The other advice offered to faculty is that:

1) the methods of evaluation should be changed; and
2) to remember that law is a service profession.

"Peggy" encouraged professors to "... try and convey to their students that grades and money isn't everything (and) that being a lawyer is a service profession. I think you should try and encourage people to develop their sense of wanting to help people rather than just make money from them."

ADVICE: IF YOU WERE TO TEACH A COURSE ...

This question was only added mid-way through the one-to-one interviews so only eight participants were actually asked this question. Responses repeated some themes but from a very different perspective as participants were considering what they would do as instructors. This helped them to provide examples of their out-look on education through envisioning their own application of the key elements of a quality education in the classroom role of the instructor, rather than from the perspective of the student. As a result the eight participants responded to the question and provided insights into how they would have liked to have been taught.

1) Never pretend to know the answer. - Know course material inside-out so that you can respond confidently to questions. Use practical examples.

2) Get students to discuss issues. Provide variety, not just traditional English case-law. Would not use socratic method. Provide field trip opportunities.

3) Provide a good basis in law and history as well as how law is applied today. Teach using a mixed approach which incorporates the law in context. Use practical examples.

SUMMARY

Teaching and learning dynamics are a fundamental element of a quality legal education. Participants explored the characteristics of effective instructors which were related to key principals developed by Ramsden (1992). They also related information about the approaches they adopted as learners. Over-all teaching and learning and the quality of the experience were found to be symbiotic in nature. The learning approach was affected by the quality of the education experience. In turn the quality education experience particularly effected the learning. In fact, certain teacher-learner interactions were found to foster very superficial or "surface" methods of learning. While other factors, encouraged a deep learning approach. A number of elements were identified including work-load and stress as well as teaching style, course material and methods of assessment which could encourage students to take either a superficial or a deeper approach to learning. Participants comments and related research indicated that the deep approaches to learning are an essential part of a quality education experience.

Other aspects of the education experience that impacted upon student learning, particularly in the legal education context, were also considered. This included consideration of:

1) two types of instructors at law school - practitioners and full-time academic faculty; and
2) the Socratic case-law method of instruction.

According to Daloz (1986), "We learn as much from the way we are taught as from the content ..." (p.144) This was important as the learners themselves have indicated, there were more lessons that were learned at law school than were necessarily intended by the instructor. Despite the general agreement amongst participants that much of the material can be self-taught and that the learning experience was in large part in the control of the learner, this did not mean that effective instructors were not highly appreciated and part of a quality learning experience.

In addition, there were also other elements of the learning environment that were perceived as a message that was transmitted through the learning process. Whether or not this message was intentional it also, as part of the over-all learning environment, had a profound effects upon the learner and the learners perception of the quality of the educational experience. These other elements of the learning experience will be explored in greater detail in the next chapter which will review the "informal" aspects of learning.

CHAPTER 4

"INFORMAL" LEARNING IN A QUALITY EDUCATION EXPERIENCE

INTRODUCTION

A key theme identified by participants was that a "quality" legal education had to include more than the "formal" learning experiences of law school. "Jonathan" - "If you only went through law school and just attended the classes, and that's it, I think that, it would be a very narrow experience ... I don't think it would be fulfilling at all!" Another participant referred to the need to do this from the perspective of simply understanding the law, "... you should have experiences on the way, throughout law school, to give context ..." to the legal principles taught.

The emphasis on "informal" learning experiences was evident when Focus Group #1 participants were asked to recall significant law school incidents. In response they rarely recounted situations which occurred as part of the "formal" teaching and learning experiences in law school. Instead they recalled anecdotal stories which were drawn from extra-curricular activities. These incidents were an important part of their law school education but they were certainly not a required part of the course-work. Involvement in these activities was not necessary to acquire the degree but seemed to be essential in guaranteeing a quality legal education experience according to the participants.

The participants in the study who indicated that they had not sought to engage in these "informal" activities were most likely to comment that their law school experience was constrained or limited. The over-all experience was disappointing for those who focused solely on course work in law school either by choice or by default. More than one participant when talking about their law school experience used the words "narrow" or "restricted".

This theme was explored further by asking two questions. The first question was used with both Focus Group #2 and the one-to-one interviews. The second question was developed following the second focus group and was used in the one-to-one interviews to conclude the interview:

1) How could your legal education experience have been improved?;

2) Any final comments on how legal education can be improved now, based upon your past experience both educational and professional.

IDENTIFYING ASPECTS OF A QUALITY LEGAL EDUCATION EXPERIENCE

Question: How could your legal education experience have been improved?

In response to the question on improving their educational experience in law school, several participants focused on formal teaching and learning dynamics and recommendations included issues discussed in previous chapters. Smaller class size was one suggestion as this would improve class participation and allow greater access to professors. More feedback was another recommendation made and this included both better methods of evaluation systems over-all and ongoing assessment throughout the term. Finally suggestions were made in respect to improving the quality of teaching and the importance of addressing situations where it was well known that the professor was inadequate as an instructor.

In order to establish whether Focus Group #2 considered extra-curricular experiences to have the same merit as indicated by Focus Group #1, it was necessary to use a specific probe. The group was asked to consider the "larger picture" of the law school experience and to provide details about any other activities (outside the class-room) that helped make law school meaningful. The aim was to discover whether members of the two focus groups agreed in principal that extra-curricular activities were important. The query was also intended to gather information on the types of "informal" experiences, if any, which impacted upon the quality of a law school education.

The members of Focus Group #2 responded to the probe by placing a significant emphasis upon the importance of their voluntary involvement in non-classroom learning experiences. This confirmed the importance of this aspect of the law school experience which the responses generated from Focus Group #1 had suggested. Participants discussed three different activities:

1) mooting;
2) client communications and counselling; and
3) participation in the Student Legal Aid[1] (SLA) Clinic which generated the most over-whelming interest and commitment.

1) Mooting

The first activity identified - mooting - has an established tradition in law school. Clark (1987) commented that, "Mooting programs and the techniques of legal research and writing have long been universal components of the LL.B. regime; (while) clinical courses designed to provide training in other practical aspects of the lawyering process have emerged only within the last decade." (p.225)

2) Client Communications and Counselling

Interviewing and counselling are two of the critical skills that the participants recalled as being part of their informal law school experience. Courses which incorporated a skills component were rare when the members of Focus Group #2 attended law school. While these types of courses have rapidly gained recognition, most law schools still offer skills courses as options and not as part of the required core curriculum. The skills identified by the MacCrate Report (1992) as essential for competent representation of clients include: problem solving; legal analysis; legal research; factual investigation; communication; counselling; negotiation; litigation and alternative dispute resolution; organization and management of legal work; and recognizing and resolving ethical dilemmas. (p. 135) (emphasis added)

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[1] Generic name given to the variety of volunteer legal clinics run by students which provide information and advice to other students and disadvantaged members of society.

Review of the legal education literature revealed an increasing number of articles suggesting ways to incorporate a skills component in the core curriculum of substantive law classes. One example, was the article by Maurer & Mischler (1994) which described a first-year course developed at Albany law school which the authors stated could serve as a model for other law faculties:

> In, Introduction to Lawyering, students examine the life of a case from its inception, before it is sanitized and compartmentalized within a casebook devoted to a discrete law school subject. They encounter the complexity and ambiguity inherent in case development, and they experience firsthand the series of decisions a lawyer must make in handling a case from initial client interview through appeal. (p. 101)

Participants commented on the importance of learning these skills and the few individuals who had chosen to attend, on a non-credit basis, the Client Interviewing and Counselling sessions, expressed how helpful the had found this experience.

3) Student Legal Aid (SLA)

Participation in Student Legal Aid provided the opportunity to participate in a clinical law experience which was otherwise unavailable to participants in Focus Group #2. For these individuals, there had been no clinical courses for which they could have received credit when they attended law school. The majority of these participants had, on their own initiative, volunteered at some point during their three year program in a student-run (SLA) clinic. A few of the participants had been very involved either as a clinic supervisor or administrator in the SLA program. These are a few of the comments they made about their experience in SLA:

> "Greg" - "I thought SLA was really important."
> "Mary" - "I found that I learned most of my skills ... that I ended up using in practice at SLA." ("Kent" and "Greg" agreed)
> "Kent" - "I guess that SLA was the single most valuable experience for me and I have never hired an articling student who didn't have it."

Unfortunately, the law faculty did not appear to necessarily support student involvement in the clinic. In fact, participants expressed their disappointment with the faculty for not recognizing the importance of the volunteer work that they were doing. This was illustrated by recollections of the ongoing disagreements between students and faculty over continued allocation of space within in the law school for the clinic.

"Kent" continued his praise of SLA and noted that, "... if we all agree that the SLA experience assists in your legal education, you shouldn't have to fight the faculty to get it!" Interestingly participants in different provinces recalled similar situations where faculty had either been disinterested or completely non-supportive of the SLA clinic, so this situation was certainly not unique.

"Ella" made the comment that law school should consider making the SLA clinic a mandatory part of the university experience. She suggested reducing the theory component in the present law school curriculum to two years and then offering a one-year clinical program in the third year where students could learn the law and assist clients. This comment created strong debate in Focus Group #2 on the merits of an academic versus a practical legal education. The group were almost evenly split on whether there should be a required practical skills component to law school or whether all three years should be focused upon acquisition of legal theory. Support for the latter position was based on a belief that there is very little time for theory once you enter the actual practice of law. The views of "Brad" and "Kent" are representative of the two positions:

> "Brad" - "... there's lots of time for practice. There's only three years for law school. So I think the type of experience that you find in the first year (there) should be still more in the other years."
>
> "Kent" countered this position, however, by saying, - "I don't disagree with you necessarily, except to point out that ... I learned a lot more theory when I was doing some practical law that required me to learn the theory. And I still know the theory eight or nine years later because of that, because I learned the two together in certain areas.

Clark (1987) in a study of curriculum in law schools found that while the first year was very similar in terms of required courses the second and third year programs were quite diverse at different law schools. One of the key differences was the number of electives particularly clinical courses. He noted, however, that,

> By their very nature such courses involve major commitments of time, energy and scarce budgetary resources. Nevertheless, their number and range has grown steadily as experience and experimentation have brought increasingly sophisticated methodology. Opposition within law faculties to their inclusion within the curriculum lessened as they were seen to provide a bridge between the theoretical and the practical. (p.225)

Clark also discussed the importance of either real (SLA-type) experience or simulated clinical courses in assisting the student to develop their analytical skills and apply intellectual insight into situations which might be faced as a practitioner.

Essentially without using the terminology, Clark was describing "Reflection in Action" and affirming the important learning that can only take place when the student must apply past learning to new and indeterminate situations. Clark then asked a question which encompassed a proposal similar in nature to "Ella's" comment. Clark considered whether this type of experience was so critical to the professional development of the student, that it was questionable whether it should be relegated to the status of "option in a core program."

> If, however, the benefits of such programs are so great to those students electing to take advantage of them, the question naturally arises whether a clinical component should not be built into the mandatory curriculum. Put another way, should development of the primary skills required in the practice of law be regarded as being as much a part of the "core" of the university legal education as substantive coverage? (p.226)

The fact that some law faculties have not adopted clinical programs or offer only limited number of placements appeared to be part of the ongoing tension between academics and practitioners. This was set out by Clark (1987) as follows:

> At one end of the spectrum are those who strongly believe that law schools have lost their true identity as disciplinary units of the intellectual community of the university through tailoring the curriculum to the perceived needs of the practicing profession. (p.222)

The end result is that faculty members who take this position are not easily persuaded to move in a direction which is practical in orientation. On the other hand, those faculties that have actually accommodated a practical component particularly those which offer legal clinics as part of the law school experience have found that these courses can encompass both theory and practice. While Clark (1987) found that clinical programs could "bridge" the chasm between academics and practitioners, he also recognized that a serious draw-back was finding the necessary resources to fund this more expensive teaching method.

Three other lawyering skills discussed by Focus Group #2 were drafting, procedure and the interpretation of statutes. There was general agreement amongst the participants that these subjects were either given minimal coverage or so poorly presented, without any contextual frame-work, that they were "of no assistance what-so-ever!" In commenting on the attempts to learn practical skills in a classroom setting divorced from any context, "Jake", stated that the experience of drafting a Statement of Claim for the first time was very much like "that first Star Trek episode ..." presumably referring to the exploration of uncharted alien territory where, "... no person has gone before." Another participant, "Sara" thought that there was now more recognition of skills courses by the law faculty which she perceived as a positive change that had taken place since she graduated from law school.

"Raymond" was the only participant who had taken a course specifically on legislative drafting and interpretation. He said he found the course interesting and challenging as the primary assignment in the class was for students to prepare a statute. "It was the best mark I got in law school because I actually got something out of it. I had to actually create something and it was fun!".

Stark (1994) agreed with the comments of participants that, "Statutory analysis is a vital component of the practice of law, but law schools pay too little attention to it." (p.579) He personally teaches a course in statute law and has found that there are numerous direct and indirect benefits. One of the less obvious benefits is that,

> Forced to teach statutes, law professors would be forced to alter their teaching methods, and that might lead many of them to reflect more carefully on their instructional goals and methods. That ... could benefit law students. (p.580)

An increased emphasis on statutory law not only made legal education more effective and interesting, it also helped correct the error of over-emphasizing case law according to Stark (1994).

ADVICE TO FUTURE LAW STUDENTS

Table 4.2, Summarized Participant Responses Giving Advice to Prospective Law Students, which is found at the end of this chapter, sets out in summarized form, the responses which members of Focus Group #2 (Part A) and the participants in the one-to-one interviews (Part B) gave to the following question:

> **Question: What piece of advice would you give to a law student (like yourself) who was entering law school today?**

This was the last question asked in Focus Group #2 and it was one of only two focus group questions where every participant was asked to respond. The participants in Focus Group #2, gave a variety of advice which were broken into the following five themes:

1) Understand what it means to be a lawyer before you commit to going to law school and don't continue in the program if you don't like what you're doing.

2) Remember who you are. Be true to yourself and be very conscious of the deliberate process of socialization in law school.

3) Maintain a healthy balance between school, social life and family.

4) Get involved! Particularly in Student legal Aid as this will help you to stay grounded and remember why you are in law school.

5) Don't expect a job once you graduate.

Each of these categories affects the quality of the educational experience and will be explored in more detail using the literature on legal education and confirming the initial advice with further comments drawn from the individual interviews.

Theme #1 - Understand the Role of the Lawyer

> "Kent" - "My advice ... would be to go out, meet a lawyer, hire one to talk to if you have to!

One participant stressed that it was important to meet with practitioners from the perspective that it might help the student find an area of law that interests them. This might assist them in law school by providing the direction and motivation that the student needs to get the most out of their legal education.

> "Heather" - If they can they should try to get out and meet some lawyers or spend some time with some lawyers so they can figure out what lawyers do and that's going to help them choose what they want to do in law school and choose what they want to get into when they get out of law school.

"Timothy" gave his advice to a prospective law student based more upon the quality of life which he considered to be poor in the profession of law "... go spend some time with a lawyer, and talk to a whole bunch of lawyers, and (have) somebody honestly tell you what it's like to practice law ... (because) if you don't really enjoy what you're doing, it's a terrible way to make a living. That's what I would tell them to do."

A student who was motivated to attend law school and become a lawyer based upon financial considerations would be well advised to carefully reconsider this decision based on the comments of participants. The most practical advice was given by "Kent" who recommended that the student, "... get him (the lawyer) drunk, get a look at his tax returns ..." and over the laughter of the Focus Group members, he justified this statement by saying that students should understand before they make the commitment to law school what it is like to practice law today.

> I think that people would avoid some disappointment and resentment, if they had a better understanding of what a practicing lawyer is, before they go through that very difficult, not necessarily unhappy, but very difficult educational process.

Finally "Penny" spoke about the importance of contacts within the profession - "... get to know the law firms, the area of law that you want to practice in and if possible to work at law firms during the summer to get experience." She recommended that students start as early as possible learning what it means to be a lawyer, not just intellectually but through actual practical work experience.

Schön (1988) identified the need for there to be greater congruency between the education that professionals receive and the actual skills and knowledge required in order to make a successful transition to their professional career. He stated,

> ... professional educators have voiced with increasing frequency their worries about the gap between the school's prevailing conception of professional knowledge and the actual competencies required of practitioners in the field." (p.10)

If law schools are not prepared to provide a more grounded or realistic education for future professionals then the participants are giving essential advice to future students when they suggest that they acquaint themselves with members of the profession. If students are to acquire a "quality" education experience they need to first develop an accurate representation of the practice of law if that is their future ambition.

As participants have noted, the prospective student will not only determine whether or not the difficult educational experience is worth the sacrifices but they may also discover personal direction which will assist them in getting the most out of their educational experience. They will also have to, in the words of the participants, take responsibility in ensuring that their educational needs are met. The student must engage in those situations that will bring about the requisite knowledge, skills and attitudes whether or not those educational opportunities are available in the "formal" learning situations provided by the law faculty.

Participants noted that there were very limited opportunities for students to acquire the necessary practical experience in the formal curriculum. Students were therefore advised to connect with alternate or informal educational experiences that would help to provide them with some conception of the "real world." This issue of incorporating a practical component in the academic scheme and giving students a "hands-on" exposure to the profession is an issue which has long been settled in almost every other school of professional education. (Stark et. al:1986) Researchers in a far-reaching study of university education in ten pre-professional fields, including law, found that,

> Although law and journalism debate the role of clinical and field experiences in the professional program, professional educators in the other areas seem to have resolved that issue and have incorporated such activities into the curriculum. In architecture, dentistry, education, engineering, library science, medicine, nursing, pharmacy, and social work, some kind of mediated work entry forms an important element of professional preparation." (p.45)

Some have argued that in Canada the year of articling which follows law school provides sufficient opportunity to learn the practical side of law. The unfortunate consequence for the individual, however, can be the discovery following this traditional route, that after a three year investment of time and intense energy, they do not like the practice of law. In addition, when learning does not occur "in context" for a three year period of time it is simply not realistic to expect that the years of theory will coalesce in the term of articles where frequently supervision is not ongoing and mistakes can have serious consequences for client.

Theme #2 - "Remember who you are"

In Focus Group #2, "Sara" was critical of law school in fostering an education environment in which the law student could "lose themselves":

> I would say remember who you are when you go into law school and be conscious of the fact that it's a socialization process. Whether or not it's deliberate, it's happening to you ... right at the very beginning when they say - "Look to your left and look to your right and someone isn't going to be there a year from now!" ... have a healthy scepticism ... and realize these are pretty much the same techniques they use in cults."

Unfortunately, her comments while extreme may be justified as the psychological pressure of a law school education has long been the subject of study. Benjamin et.al (1986) researched the role of legal education in producing psychological distress in law students. In reference to an earlier study by Taylor (1975), revealed that research in this area had resulted in four behavioral assumptions about the professional development of lawyers:

1. Certain procedures of legal education produce an uncommonly high degree of stress in students.
2. The high degree of stress leads the student to adopt typical and shared kinds of attitudes, behaviours, values, and traits, as ways of reducing anxiety.
3. The attitudes, behaviours, values, and traits are personally or socially undesirable and may be inimical to the process of law.
4. Such pernicious attitudes, behaviours and values are in part adopted because they are transmitted by faculty precepts. (p.252)

Another study cited by Benjamin et.al.(1986) was a test of law students using the Omnibus Personality Inventory which showed an increased level of anxiety and feelings of internal conflict in first year law students.

> Hedegard (the researcher) proposed that the scores increased because the students unsuccessfully attempted to resolve conflicts between the value systems they brought to law school and what they are learning about the law and how it works, which may introduce ambiguity." (p.227)

Benjamin et.al (1986) reported that "The pattern of results suggests that certain aspects of legal education produce uncommonly elevated psychological distress levels among significant numbers of law students and recently graduated alumni." (p.247) The researchers found that the higher distress levels were not the result of certain types of people choosing to enter law, rather it was the law school educational process itself that affected the individuals.

> ... only 3 - 9% of individuals in industrial nations suffer from depression; prelaw subject group means did not differ from normative expectations. Yet, 17 - 40% of law students and alumni in our study suffered from depression, while 20 - 40% of the same subjects suffered from other elevated symptoms.

> Another way of understanding how stressful the legal educational process appears to be is to compare the symptom scores of law students with those students from another professional program. In our initial study, medical students and law students were compared .... law students developed significantly more distress than medical students for all symptoms ... (p.247)

Although clearly not able to follow his own advice, "Raymond" stressed that students have to realize that the whole law school system should not be taken so seriously by law students:

> ... I'd love to just say, "Look, this is the system. Think of it as hoops you have to jump through! ... try and get through it without getting overly anxious about it ... (yet) I know for me I got so worked up in my first year, that, you know, it was a health risk ... it was really bad stress ... "

Benjamin et.al (1986) attempted to address what elements in legal education cause such elevated stress levels. The researchers noted that, "First year students are generally overwhelmed. The work-load leaves many without time to sleep and relax adequately or to enjoy relationships with friends and relatives." (p.247) "Kent" was one of the participants who found that law school was essentially a gruelling test of personal stamina, particularly during the period of exams. How well you do at law school was, "... really a reflection on how well you can do without sleep for two weeks and concentrate."

"Jake" commented that he would advise prospective students as follows: I would say don't, don't forget you have another life, a real life. Be sure to enjoy it! Don't get caught up in the whole thing ..." He also cautioned not to try and become what, "... the people who (are) hiring you, what they want you to be like. *Be yourself!*" But participants agreed that the advice to resist the socialization process of law school was easier said than done.

When the researchers (Benjamin:1986) asked, whether it was possible that law schools could have such a pervasive socializing influence on students the answer that they gave was a resounding - "Yes" (p.251) "In fact, law schools appear to be the most invasive among all graduate education. Thus it should not be surprising that law students "learn the requirements of the system and turn themselves into the kind of people the situation demands." (p.252)

Turow (1977) in his book "One L", recalled his experiences in first year Harvard Law School. The following conversation with a friend in the early weeks of law school, as related by Turow provides a personal illustration of the research findings above:

> "They're turning me into someone else," she said, referring to our professors. "They're making me different."
> I told her that was called education and she told me, quite rightly, that I was being flip.
> It's someone I don't want to be," she said. "Don't you get the feeling all the time that you're being indoctrinated? (p.83)

Turow (1977) supplied a further scenario of the "education or indoctrination" process in which a particular law students' strongly-held principles were challenged and dismissed as unimportant in class. In the following scenario the student (Mr. Vivian) has just suggested that in solving the specific legal issue in question it is important to remember that:

> ... All persons are created equal.
> "Oh, are they?" Perini asked. "Did you create them, Mr. Vivian? Have you taken a survey?"
> "I believe it," Vivian answered.
> "Well, hooray," said Perini, "that proves a great deal. How do you justify that, Mr. Vivian?" (p.84-85)

The demand to examine and justify all opinions was recognized as not only difficult, but disconcerting by Turow and fellow-students. Yet he noted that within a month, discussions between students changed fundamentally as students became more skilled in reconciling and justifying positions. The new style of debate, however, precluded emotion. This was not an easy nor in the larger scheme of things a desirable transition. As a fellow-student of Turow's stated;

> "I don't care if Bertram Mann (the professor) doesn't want to know how I feel about prostitution," she said that day at lunch. "I feel a lot of things about prostitution and they have everything to do with the way I think about prostitution. I don't want to become the kind of person who tries to pretend that my feelings have nothing to do with my opinions. It's not bad to feel things." (p.85)

The impact of law school has been considered in two published personal journals - Turow (1977) who attended Harvard Law School and Goodrich (1991) who attended Yale. Despite the discrepancy of almost 15 years, the experiences related by the two authors about the impact of law school, are remarkably similar. Goodrich attended only the first year of a law school program as part of a Masters of Studies in Law. He stated that,

> Before going to Yale Law I had joked with friends that I would consider my year a success if I convinced a few law students to drop out. Now, drawn to law's power as much as repulsed by its effects, I redefined the joke. The year would be worthwhile, I told myself, if I convinced a few law students to stay enrolled - and then, as lawyers, to change the legal culture from within. (p.57)

Benjamin et.al (1986) combined study data with a review of the literature and made three recommendations on how legal education could be restructured in order to reduce distress levels amongst students:

1) excessive work-loads which result in time management problems need to be monitored more closely by faculty;
2) chronically high student-faculty ratios should be reduced; and,
3) increased development of students inter-personal skills with a corresponding decrease in emphasis on conventional law school curriculum which concentrates solely on the development of analytical skills at the expense of inter-personal concerns.

A legal educator, Berger (Dvorkin et.al:1981) also found that the key criticism of a law school education is the over-emphasis on analysis and reasoning and the devaluing of emotions.

> ... I believe that legal education is too single-mindedly absorbed in affairs of the head and too inattentive to - indeed, rejecting of - matters of the heart. Legal education is an intensely cerebral pursuit. The highest praise we can bestow upon our students is to tell them that they "think like a lawyer," which requires a wholly analytical matrix for dealing with problems ...
> ... Students learn quickly that if we, their instructors are to judge them highly, they must prove themselves with their heads. (p.33)

The over-emphasis in a law school education on teaching rational thinking processes and stripping away emotive content has serious affects on the student. The teaching style and emphasis in law school also has potential ramifications for society.

> I do not assert that legal education makes our graduates evil, but I do believe that legal education makes our graduates less feeling, less caring, less sensitive to the needs of others, less tolerant of the frailties of their fellow creatures, even less alarmed about the in-justices of our society, than they were when they entered law school.
>
> What concerns me is the mind-set and the heart-set into which we mould our students; that it is better to be smart than passionate; that people who feel too deeply tend not to think too clearly; that a fine intellect can rationalize any position or state of affairs, no matter how outrageous or indecent or unjust ...
>
> At the risk of sounding simplistic, we should train our students to deal with other human beings, so they will begin to understand that when a client comes into a lawyer's office he is usually a disturbed person, so they will begin to appreciate that very often what surfaces as a legal problem has its roots in deep-seated social problems. Above all - and this has nothing to do with the curriculum - I think that we as teachers must let our students know that we value them, and not only for their intellectual abilities. For unless lawyers value the compassionate in their own beings, I think they will be incapable of caring about the human needs of others. (p.33-34)

"Greg" recognized the distancing of oneself from others which was created by the legal education received. "As lawyers we may completely ignore the emotional contents of the situation. ... I hope it's not the way we practice but (it's) the way you're taught to think in law school."

Theme #3 - Maintain (a healthy) balance

In Focus Group #1, there were some very strong sentiments expressed about the law school experience which bordered on suggesting that it was damaging to one's personal psyche. These comments were taken very seriously by the group members. In fact, many participants in both focus groups and in the one-to-one interviews considered that the only way to maintain one's sanity was by achieving a balance between law school and other aspects of their life. Establishing friendships and focusing on the social aspects of law school were one of the more important recommendations made in respect to maintaining balance. Quotations from six participants reflect the range of coping mechanisms adopted and illustrate the need for the individual to maintain personal connections and a balanced perspective and life-style.

> **"Heather"** - "Enjoy it! ... Get involved! ... get to know (the) professors ... make some good friendships.
>
> **"Janet"** - "Get involved, like get involved in study groups and things like that."
>
> **"Peggy"** - believed that she took the wrong approach to law school and she recommended that students "Connect with people with similar interests rather than being so narrow. The mind-set I was in, I didn't want to spend a second longer at the law school than I had to ..."
>
> **"Richard"** - "... get involved ... get to know all these people ... get involved in committees, in sports teams, and those other things ... (it is) really sacrificing an important part of the law school experience if (you) just focused purely on the studying ... try not to lose that perspective and try to have a balanced life when you go into law school."

> **"Jonathan"**- "Take advantage of the social opportunities because the friendships and the bonds that you make will last a lifetime."
>
> **"Victor"** - "Don't take it too seriously ... (law students should) maintain a balance in their lives, law school is not everything. Ten years from now when they're a practicing lawyer, what happened in law school will seem very dim and very unimportant, probably, so don't get caught up in the "Paper Chase" devoting your entire life and soul to law school."

This final comment was an interesting analogy to the movie for in the final scene, the central character - a successful law student - was seen making a paper air-plane out of the marks he has just received and sending them out over the ocean without finding out his "standing" in the class. In the beginning the hero allowed the whole experience of first year law school to overwhelm him. All of the students surrounding him are portrayed as trying desperately each in their own way, and for the most part unsuccessfully, to cope with law school. He eventually comes to terms with the fact that law school will absorb all of the time and energy any individual cares to give.

So in the end, the message, is similar, to the one repeated by the comments of participant in this study - get involved, live law school to the fullest, try your hardest but in the end do not let the experience over-whelm your equilibrium. The message was also clear that strictly focusing upon marks will in the end diminish your law school education experience at best and at worst, it can completely undermine your self-confidence and self-esteem!

Theme 4 - Get Involved!

Volunteer Involvement (Student Legal Aid)

Three perspectives were identified on the recommendation to become involved in Student Legal Aid programs either as a volunteer, or as part of similar clinic experience offered as part of the "formal" law school curriculum. Generally participants concluded that it provided the student with the following opportunities:

i) to learn the law in context;
ii) to acquire the necessary skills; and
iii) to contribute to society through community service.

i) Law in Context - The first benefit of working in Student Legal Aid clinics was that it provided the student with an understanding of the "law in action." The premise behind participants who saw value in this as an educational experience was the capacity of such activities to help the student to better understand the law which was being learned in the classroom.

In the words of "Benjamin", working at SLA enhanced the learning experience:

> There is so much knowledge being acquired in three years of law school, but in addition to all the academic or core knowledge that you're acquiring, it's also very helpful to acquire some sort of a perspective, practice perspective.
>
> ... one of the things I would definitely recommend to a student is to participate where possible ... in clinic or field experiences to add meaning ... I think it helps the over-all learning experience and retention and understanding. So much of what you learn at law school could have more meaning and more application if you had some fuller understanding of the practice context.

"Heather" - "Get involved ... do something such as Student Legal Aid" ...(it is a) chance to put all that theory to a test."

"Brian" - "Experience as much of it as possible by not only working hard but also ... getting involved with the people at law school."

One key area of involvement that "Brian" recommended was Student Legal Aid as he found this to be important for two reasons. It was, "Extremely valuable for meeting people that you might remain in contact with after you graduate and, learning how you're going to apply all this academic stuff."

Some participants were clearly less motivated to continue in law school when their studies were solely presented from an academic perspective. The opportunity to engage in practical application of what they were learning, often helped to motivate them as students to "see the light at the end of the tunnel" and continue on in law school. For example, "Janet" recommended involvement in order to get practical experience which she found was often sorely lacking in law school,

> Get involved in something like Student Legal Aid or get a job at a law firm in the summer to give you some sense of why you are learning these things."

ii) Skills Acquisition - A second purpose for involvement in SLA was that it helped students acquire the necessary skills for practice that were not found in other courses. Participants indicated that ultimately they were better able to help their clients, once they begin articles, as a result. This makes the clinical or volunteer experience part of a well-rounded legal education experience.

"Jonathan" - "... lastly, I would say get involved in some of the other practical things such as Student Legal Aid ... mooting programs because the skills you learn there and the experiences that you have will stay with you. Because you're looking, I think, in law school for as broad a range of experiences as you can."

iii) Community Service - A third reason for involvement in SLA was altruistic in nature. It was premised on the idea that the lawyer as a professional should feel an obligation to repay society for the privilege of being a member of the profession. Working in a volunteer legal aid clinic can help to set the student on the course of service to the community.

"Greg", in Focus Group #2, did not see SLA as being necessary from the view-point of the student, he simply recommended involvement in SLA, because it, "... is just a very practical, rewarding, socially important thing to do."

"Jonathan" thought that his experience at SLA had given him a perspective on the law that was critical to his present legal philosophy. As a law student, he was able to help two disabled people fight the welfare system to get their full benefits. "I came away from that experience thinking, there is tremendous power in the law! It can have a tremendous impact on people's lives. While we tend to, sometimes, forget that and just treat a file as a file, it's one thing I try not to forget, is that how important the law is to a person."

Theme #5 - Don't Expect A Job (as a Practicing Lawyer)!

In recent years a new element has come to the forefront of legal education - the prospect that a law degree is no longer a guarantee of employment. This will have a significant impact on future law students and may result in changes to their own personal aims and expectations as well as affecting the over-all objectives of law school.

In Focus Group #2, "Dawn" commented that prospective law students should not expect to get a job, but she disagreed with "Ella" who suggested that it was not worth going to law school. "Dawn" - "Oh, I don't agree with that, I think it's a really wonderful educational experience, but don't go in expecting that law school is going to get you an articling position."

"Peggy" suggested that law school can be a good entry level degree for many different careers. She suggested that graduates, "Keep an open mind about what you can do with a law degree. Because I don't think it's realistic that people are all going to get jobs in the private sector ..."

The following four quotations express further commentary on the current job situation from the perspective of the participants:

"Benjamin" - He would not recommend law school from a strictly economic perspective because, " ... it's become such a competitive field with relatively few opportunities at the end."

"Peter" - "Get out! Don't go!" was his advice to the student who was considering entering law school today. His reasoning was strictly financial - "Things have become so competitive, we, I literally just scrape. I've been doing this for eight years and I don't know where our next months expenses are coming from yet!" He did acknowledge that if the individuals reasons do NOT include the practice of law then it may be worth going through law school. "If you want to do it for academic, or self-enhancement reasons than go right ahead." but he cautioned that you may wish to consider another degree first preferably in a trade that you can fall back on.

"Dennis" - "Go to Thailand" was his advice to prospective law students, presumably rather than beginning or continuing the three years of law school. His advice was not surprising given that he continued by relating that as recently as a few days prior to the interview he was contemplating leaving the legal profession himself. Yet by his own admission he is one of the few of his class-mates that actually enjoys the practice of law. He stated in the interview, "I'm having a great time! It's a lot of fun!" but his advice to law students was that, "If you don't like it - Get out! Because there's nothing else to recommend it!" He agreed that would be difficult to determine whether or not a person would like the practice of law until they actually enter the work-place. "... it's really hard to know until you try. It's kind of a big gamble I think."

"Richard" - "You may come out with a degree but ... it's not like you're to have an article, let alone the you're going to have a job that's kind of secure after that ..."

"Raymond" encouraged law students to be proactive in seeking out the skills and knowledge required if it was not available as part of the "formal" law school curriculum.

> I'd say, ... realize that the system is not adequate to prepare you. If you're planning a career in law, if you're planning a sole practice I'd say take the extra time ... to learn about office management (and other "basic skills" because) ... It certainly doesn't prepare you for what you're going to need at the other end, so you have to take personal responsibility for yourself. And don't expect the law firm or the Law Society or the academic world to give you what you need to be a lawyer. It's not going to.

Two final areas referred to in advising law students about how best to approach their law school education were:

1) the impact of law school marks on securing articles and;

2) the choice of electives.

Marks and Articles

While most participants advised students not to make marks the focus of their legal education, a few individuals disagreed with this general consensus. While definitely a minority view-point, they stressed that law school marks are a legitimate and important goal and advised students to consider their standing in the class if they hoped to expand their options in the tight job market.

> a) "Jonathan" - "Study hard to get the marks because then you will have many more doors open to you at least at the outset. Your marks become much less important ... after you have been practicing.
>
> b) "Penny" - "Do very well in your first and second year! Make sure you get a good article!"

Choice of Electives

One last issue identified was the caution to prospective law students to be careful in setting out their educational program. Members of Focus Group #2 were concerned over the recent tendency of law schools to offer increasingly "esoteric options" which had little relevance to the actual practice of law. Participants believed that the trend to offer more obscure "flavour of the month" courses confused students. The courses may look good in the calendar but they will not help the student find a job upon graduation or assist in day to day legal practice. This must be contrasted with the opinions of Focus Group #1 members who thought that law schools in the future would adapt by offering increasingly more specialized courses and perhaps developing fields of expertise within the law faculty.

An underlying belief apparent in the comments of Focus Group #1 participants was that law students must not neglect core courses which are necessary for the practice of law. Yet it was agreed that as the law changes, the obscure subject matter courses of today may be seen as tomorrow's hot topic. But even more interesting was the apparent paradox of those individuals who justified the non-inclusion of skills courses based upon the argument that law school must be academic in orientation. Yet these same individuals saw no double standard in restricting options so that students do not neglect core substantive area courses that are necessary for the day to day practice of law. The argument against the electives, was simply that they are not practical enough to justify inclusion in the law school curriculum. Yet practical courses are found to be unacceptable because law school should not gear its curriculum towards training for the practice of law. This was a very interesting incongruity.

In responding to the request for advice that participants could give to prospective law students, the responses indicated which aspects of the law school experience were perceived to be most beneficial. The following TABLE 4.1 sets out the responses which members of Focus Group #2 gave to this question. This was the last question asked in this Focus Group and it was one of only two questions where every participant was asked to respond in turn to the question.

> **Question: What piece of advice would you give to a law student (like yourself) who was entering law school today?**

TABLE 4.1 - Summary Participant Responses (Focus Group #2) - Giving Advice to Prospective Law Students

Focus Group	Piece of Advice to A New Law Student
"Joan"	Maintain balance. Practical versus theory. Involvement in SLA to keep grounded. Balance with family life.
"Dawn"	Don't expect a job. Law is good educational experience.
"Ella"	Don't go. Educational experience is not worth it.
"Sara"	Remember who you are, otherwise you will find that you are lost. Be conscious of socialization process. Maintain a healthy scepticism and remember law school is like a "cult".
"Mary"	Understand what it is to be a lawyer before commit. Don't expect to get a job.
"Kent"	Talk to lawyers and find out about what they do and their income. Understand what it is to be a lawyer before commit.
"Jake"	Keep life balanced. Treat it like a 9:00 to 5:00 job. Don't get caught up in competition. Be yourself and if you don't enjoy it then quit!
"Brad"	Don't be consumed by law. You need to step back and reflect.
"Greg"	Learning is the individuals responsibility. Get involved in SLA as it is both practical and rewarding socially.

TABLE 4.2 - Summary Participant Responses (One-to-One Interviews) - Giving Advice to Prospective Law Students

Name	Piece of Advice to a New Law Student
Heather	Meet with lawyers and find out what they do. Choose what you want out of law school. Enjoy law school - get involved. Form friendships. Do SLA work.
Peggy	Go to medical school instead. If you go, keep an open mind about what you can do with a law degree. Connect with other people.
Brian	Experience as much as possible. Work hard but get involved. Meet people. Do SLA work.
Peter	Get out. Don't go! Unless you are simply going for academic self-enhancement. Stay on top of readings. Forget high marks.
Richard	Realize what you are getting into. There are no guarantees on getting either articles or a job. Don't concentrate on marks. Lead a balanced life.
Victor	Don't take it too seriously. Maintain a balanced life. Find out what you want to practice and specialize. Law school can open the doors to business and alternate careers.
Casey	N/A
Janet	Get experience working with the public either before or during law school. Increase ability to question. Practical experience - law related. Get involved with other students.
Penny	Do VERY well in your first and second year. Get good articles. Know your law firms.
Benjamin	Economically don't go to law school. If you do go get clinic and field experience. Practice helps over-all learning in law.
Dennis	Go to Thailand. You should only go to law school if you really want to be a lawyer - if you don't like it then get out because there is nothing to recommend the actual practice of law other than an interest in the law.
Table 4.2 (cont.)	

Table 4.2	**Piece of Advice to a New Law Student One-to-One Interviews (continued)**
Jonathan	Study hard to get good marks because this will open doors as firms take marks very seriously. Get involved in SLA, mooting and make friendships.
Raymond	Tell them, "Look this is the system - think of it as hoops you have to jump through ... and don't worry about it so much." Stress can be a health risk so just try to understand the basic concepts and get through the system. Also realize that law school will not prepare you for the practice of law so if you want to be a practitioner than you should take time to learn basic skills.
Beatrice	Quit while you're ahead. It depends on what the students goals for law school are - why they want a legal education. Student should choose a law school based on area of interest. Have lots of social support and find like-minded people in the law school for social support. Good luck!
Lynne	Keep open mind and take off "blinders".
Mable	You really have to fight to keep confidence. Law is a very conservative profession and if you are not that kind of person it tests you.
Natalie	N/A
Charles	Consider law school your life - not simply as a stepping stone. Enjoy it! Don't focus on marks but on the whole experience
George	Take well rounded classes and maintain outside interests. Keep in mind that you may not be a practitioner when you graduate.
Timothy	Spend time with lawyers and find out what practice is like. Be realistic. Find area of interest and focus in that area. Handle stress (in his case he participated in sports on a regular basis). Maintain balance.

SUMMARY

The focus on the "informal" learning experiences of law school emphasized the importance of students being connected to the experience of law school and yet maintaining a balanced approach. Those participants who established friendships, and found positive ways of coping with the stress of law school, ended up having a much improved perception of the quality of their legal education experience.

Students who were connected to peers and clients through SLA found this to be a beneficial experience from both a legal and personal perspective. It was considered important for students to take responsibility for finding out the necessary information to plan their own education program. Students were advised that their needs may not be satisfied by the "formal" learning experiences offered in the traditional law school curriculum. Participants also recommended that students foster early connections with members of the legal profession. This helped students by giving them a realistic appreciation of the current state of the legal profession as well as providing information on the necessary skills, knowledge and attitudes required for the successful transition to the legal community upon graduation.

CHAPTER 5

CURRENT CHALLENGES AND FUTURE DIRECTION

INTRODUCTION

Education still holds the promise of a "better world" and many students enrol in law school on the strength of this promise. The better world may be societal, or it may be personal but most students believe that admission to law school is a turning point in their lives for the better. The current challenges in legal education, as identified by participants, provided a sobering glimpse, however, into a future where hopes of a "better world" may not be so easily realized. The participants expressed not only discontent with the outcomes of legal education in the nineties but a real concern for future graduates who face an increasingly difficult transition to the working world and the legal profession.

Unfortunately, law schools are generally focused on tradition and do not tend to be future oriented. According to Neave (1990) legal educators have continued to discuss the direction of legal education from very narrow and introspective positions that assume life will continue in much the same way as it has in the past. Despite rapid changes in the world outside, many developments are either ignored or minimized as being of little concern to the law school itself. Neave (1990) stated that,

> Debates about legal education (often) ... fill me with a sense of unreality, because they are so inward looking ... the legal education questions which are so hotly debated at faculty and law society meetings seem trivial ... (and) there is a danger in focussing discussion on the minutiae of legal education and divorcing it from a broader vision of the role of lawyers and law in our society. (p.150)

Therefore, in preparing law students for the 21st century, Neave insisted that as, "... legal education does not exist only for lawyers but for the community which the legal profession exist(s) to serve ..." it is necessary that law schools be aware, "... of the profound changes which are likely to occur in legal and social institutions in the future and to discuss the implications which these changes will have for those involved in legal education." (p.149)

MacFarlane (1994) agreed that law schools continue to promote a very narrow view of legal education in Canada. The curriculum content, methods of delivery and evaluation often fail to take into account a changing Canadian society or even changes in the make-up of the student body. MacFarlane criticized the law faculty for failing to broaden the definition of knowledge. She characterized the narrow perception of knowledge and learning in the law school environment to be the most significant root cause of the general lack of awareness of developments in the larger society.

> Classroom teaching methods, assessment processes, and the shape and substance of the law school curriculum are crucially shaped by how we understand the nature of "knowledge" and "learning". Law school pedagogies are still heavily influenced ... by a rationalist model of knowledge which assumes that knowledge can be objective, certain and universal, and which measures achievement against those standards. (p.359)

According to MacFarlane this, "... continued dominance in legal education of a rationalist model of knowledge ... (which) reflects a narrow view of what is "real" knowledge inevitably fails to reflect or respond to the radically changing conditions of a pluralist society." (p.359) MacFarlane concluded her assessment of Canadian law schools by recommending several changes including the use of experimental teaching and learning methods as, "... an alternative to the didactic, lecture-style teaching methods that (are) predominant in law school." (p.359)

A key criterion for Neave (1990) in assessing a quality legal education was a consideration of the role that lawyers will ultimately play in the society of the future. In fact,

> Questioning the role of lawyers may well result in the conclusion that they should be performing quite different functions and being educated in a very different manner from the way in which they are being educated at present." (p.159)

It was therefore considered critical to canvas the opinions of participants about their perceptions of the primary legal education issues facing law schools at present, and in the future.

It was apparent from the literature and from the comments of the participants that there needed to be further discussion, and decisions made, in respect to the aims of university legal education in the nineties and beyond. Yet the most common issues which are the subject of debate in recent years tend to be those topics which focus upon the more immediate concerns of funding. In fact, much of the conversation about the direction of university education, generally, and legal education, specifically, has centred around discussion of economic issues. The lack of adequate financial resources and the ongoing debate about student enrollment, particularly the question of whether to reduce the number of law graduates have been two central issues for law schools in Canada.

Participants identified both of these issues as affecting legal education, but were generally more concerned, and directly impacted by, a third issue - the challenge of obtaining rewarding and fulfilling employment after law school. Unfortunately the issue of post-graduation adjustment and the impact of societal change on the overall effectiveness of legal education as a preparation for future employment have often been considered to be marginal or irrelevant to the majority of law professors. According to Neave (1990), however, the law faculty must think seriously about the future of legal education as it is no longer responsible to simply consider the development of legal education from within the "box" of law school - as if legal education could be taught separate and apart from the real world context.

Development of the Question

Focus Group #1 - Issue Identified

Focus Group #1 expressed strong concerns about the future of law school studies and the legal profession. It was generally felt that the changes which have already occurred and which are imminent will have a profound effect upon legal education. Certainly it was apparent that in order for law schools to remain relevant there must be attempts made to adapt to the changing times. One method of adaptation which Focus Group #1 participants identified was the increasing specialization of law schools. Participants commented that law schools in Canada would be likely to continue the current trend of offering unique programs in certain specialized areas. Examples generated by the group included a law faculty known for its Corporate Law program; another school which offered an Alternate Dispute Resolution specialization and a third law school which offered courses specific to the law and legal concerns of the Pacific Rim. In this way a law faculty was seen to secure a particular niche by demonstrating a marketable specialty which attracted certain students and faculty.

The central concern which emerged in Focus Group #1, however, was in respect to the number of law school graduates. This issue was discussed in some detail. The group recognized the importance of avoiding exclusionary measures such as quotas on law school admission which would only protect the members of the legal profession with little consideration for society. Yet this position was balanced by the recognized need to protect the quality of legal services which would ultimately be compromised by poorly educated practitioners. Participants in Focus Group #1 were also concerned that the need to compete with the increasing number of recent graduates in an already saturated market would mean a lowering of standards as practitioners were forced to sacrifice quality in order to cut costs.

Focus Group #2 - Question

In order to expand upon the general theme of "issues in legal education" which Focus Group #1 identified, the following question was developed and used in Focus Group #2:

What do you see as the greatest challenge in legal education today?

From the responses of Focus Group #2 participants the following sub-themes were developed:

1) Change:

- (a) Information Age/Computerization:
  - Changes in technology have resulted in the need for students to be computer literate.
- (b) Cost & Quality of Legal Education
  - Funding of university education has decreased at a time when the need to provide a quality legal education has increased. More effective teaching and learning methods are compromised by the lack of adequate funding.

2) Too Many Graduates:

Focus Group #2 participants recognized that it is a very grim situation for many recent law graduates. The general consensus was that law schools must consider encouraging law students to pursue alternate careers and assist them in this regard. If this issue was not addressed then the necessary alternative would be stricter quotas on the number of students admitted into Canadian law faculties in numbers more reflective of societies' need for lawyers.

3) Core Courses - Relevance:

There was a perceived need to determine and offer those core courses considered to be the fundamental building blocks for future practice. The law faculties should be careful not to adopt "flavour of the month" topics in response to public and student pressure or to satisfy faculty interest without carefully considering the value of these courses for the student in the future.

4) Balance Between Theory and Practice:

The ongoing debate between training and education continued and most participants indicated that it was likely this issue would not be resolved in the near future. Again, it was agreed that in order to determine the appropriate mix of theory and practice it was first necessary to determine the purpose of law school. Participants in Focus Group #2 recommended that this issue could be settled by a joint effort of the law faculty in conjunction with the respective Law Societies. Both should be considered equal and necessary partners in creating a clear statement of the aims and objectives of a law degree. While this should occur at the National level, it was not foreseeable in the near future according to the participants.

One-To-One Interview Questions

As the foregoing question generated pertinent information on current issues in legal education two very similar questions were used in the individual one-to-one interviews:

> **What do you see as the greatest challenge in legal education that law schools face .... (1) today? (and) ..... (2) in the future?**

Comments made by participants in the one-to-one interviews generally supported the sub-themes identified by the two Focus Groups. The following two issues were predominant:

1) rapid changes in technology & law practice; and
2) the impact of the increasing number of law graduates.

It was interesting to note that when asked about challenges in legal education, most participants chose to answer this question by referring to negative problems that law schools face now and in the future. Participants were generally very animated in discussing these issues. They demonstrated a genuine concern that law schools need to carefully reconsider their current practices and develop more appropriate responses which signify a better adaptation to contemporary Canadian society.

Another interesting phenomenon was that when asked about challenges facing law schools in the present, and then asked to consider future challenges, most interview participants commented that these would be the same problems. A common answer to the second question was that current issues will simply become increasingly serious in the future, particularly if no action is taken soon. In some cases the question about future challenges generated additional issues but the issues identified by participants as "being in the future" were clearly current problems which could be addressed now by law schools. There were simply no issues perceived as a problem "in the future" that another participant hadn't identified as an area that was already causing concern today.

ANALYSIS & REVIEW OF RESPONSES:

1) Technology & Change

Law schools in Canada are facing a difficult time of transition. Rapid changes in recent years have forced the modification of the traditional legal curriculum. Technological developments, in particular, challenge the relevancy of the law school curriculum. "Benjamin" noted that the advent of the information age posed one of the greatest challenges in legal education. "... since all law relates to information." The increasing use of computers results in the need for ongoing training of all legal personnel ... (as) everybody moves to greater use of computers for everything from searching and precedents, to research and doing case law." He concluded by stating, " That's probably a whole ... field unto itself!"

"Raymond" agreed that the law school must accommodate the new technologies and encourage students to actively seek learning opportunities involving newly developed computer programs. When asked what he saw as the greatest challenge in legal education, he answered,

> Well, I think adapting to the reality of the new millennia, the new paradigm, in practice and in business and in society ...
> I don't know what they (the law faculty) are doing about the computer and the revolution of the Internet ... when I went to law school and asked a senior practitioner, "Should I learn how to type?", he said, "That's what secretaries are for." Right now I do all my own work on my computer and that's the way all the young lawyers are working now.

In an article entitled, "From Quill Pen to Computer," Smith (Esau & Penner (Eds): 1990) stated a similar premise,

> It is no doubt trite to speak of the computer age as a second industrial revolution, but ... what is happening is certainly revolutionary. The amount of information that lawyers are required to deal with in legal process is constantly increasing, and the technology for handling it in electronic form is developing at a fast pace. (p.19)

Smith (1990) reviewed the impact on the actual practice of law and finished his article with the statement that, "Legal education has the challenge of training lawyers for the practice of law in the 21st century. In the ensuing years there will be a great demand for young lawyers who can practice law within an electronic environment." (p.25)

Yet "Raymond" was critical of law schools, particularly when they are not adapting to the changes in society or moving too slowly to "provide adequate service" for the students. He saw the "computer revolution" as being a "... real change in the whole way that the system is working ... and if a lawyer comes out of law school and doesn't know how to use the Internet, doesn't know how to word process his own forms, doesn't know how to use basic Excell or spread-sheets ... " then the comment that "Raymond" would make to that student is, "You're out of luck!" in trying to adapt to the new working world.

Arthurs (1995) also expressed concern about these changes, particularly the phenomenal increase in information and the impact this will have, both on what is taught and ultimately how lawyers perceive their role and function in society. The primary job of the lawyer is to deal with information. Therefore, in the age of the "information explosion" lawyers, for better or for worse, will be one of the most affected groups in society. Arthurs (1995) stated that we are entering the Information Age with a resulting shift in the central paradigm. In his article, "A Lot of Knowledge is a Dangerous Thing: Will the legal profession survive the knowledge explosion?", he commented,

> We are in the midst of a crisis which encompasses the creation, management, transmission and validation of all forms of lawyers' knowledge - technical knowledge, craft knowledge and systemic knowledge." (p.300)

He then considered two options which face the legal profession. The ultimate decision will have serious ramifications on both the way in which law is taught and the content of what is taught: "Essentially, we have two choices: either we will continue to insist that lawyers can and should know everything, or we will accept that lawyers must become expert in some fields of knowledge and know very little about others." (p.301).

This leads to a consideration of two other issues identified by participants; 1) the increasing specialization of the practice of law; and 2) the need to become a life-long learner in order to cope with the demands of ongoing change in the information age.

Legal Specialization and Life Long Learning

In respect to the future, there will be an ongoing need to respond to change. In fact, "Raymond" stated that the "new social paradigm is change itself." A persons career used to be much more stable and predictable and this was reflected in all walks of life.

> It used to be that in the 50's you'd get called to the bar, and join a big firm, and that was your job for the rest of your life. It wasn't just law, it was the same in the mechanic shop or the automotive industry, or wherever you were - you were a "firm guy." You'd go into the corporation - you'd go up the corporate ladder. Nowadays, everybody

> expects change ... so if the universities, and this isn't just law school, if the universities can't produce people who are independent, then the whole system falls down, and who is going to win? ... the technical institutes, the ones that are actually preparing people to function and adapt ... you learn something, (and) get out. You can move quickly.

"Raymond" thought, however, that it was unlikely individual faculty members could do much without a major over-haul to the legal education system. "They've probably pushed the limits of the box as far as they could, but they're still in a box." When asked what was imposing the limits on the law faculty, he answered that this was a good question,

> I think the system is just perpetuating itself ... certain conventions just continue because that's the way it's been done over the last three decades and nobody wants to really challenge it. And if you challenge it, you're a heretic. I think there's definitely room for a paradigm shift in the whole approach to legal education.

One way participants recommended law schools remain competitive, was the adoption a more practice-oriented approach which incorporated the option of specialization. More than one participant favoured the "medical model" over the present legal model as there was more emphasis on practical training and preparation for the transition to the profession.

If the law faculty cannot adapt to change then the consequences could be quite harsh according to "Raymond":

> ... this whole telecommunication thing (is) going to change the whole fabric of society ... it's happening quickly (and) ... the academics who are sitting in their little Ivory Towers really haven't figured it out yet
>
> But one day ... the changes are going to come and there will be this ugly reckoning. Because you can't have students going to university for four years and learn nothing about how to be practical in society, whether it's law or otherwise. It's not going to happen. I think there's going to be a real brain-drain away from the Universities toward the Technical Institutes.

Certainly there has to be a better fit between the law school curriculum and the ultimate needs of students and law graduates. Yet there also has to be a realization that the student can no longer expect a complete education where every future educational need is satisfied. To assist in this transition, the law faculty have a responsibility to foster independent learners who will be able to cope with the demands of a changing world.

Naisbitt (1983) wrote about the impact of the information age in his book, Megatrends: Ten New Directions Transforming Our Lives. He stated that, "In the new information society, where the only constant is change, we can no longer expect to get an education and be done with it. There is no one education, no one skill that lasts a lifetime now. Like it or not, the information age has turned us all into lifelong learners." Naisbitt (1983) recognized that both the learner and the institutions of learning will have to adapt to new roles. He continued his analysis of education in this new age by emphasizing that the primary aim can no longer be the acquisition of knowledge itself but the skill and means to access knowledge, "In a world that is constantly changing, there is no one subject or set of subjects that will serve you for the foreseeable future, let alone for the rest of your life. The most important skill to acquire right now is learning how to learn."

Ultimately the skill of life-long learning is also essential from the perspective of continued competence in future practice as a lawyer. Cervero (1988) found in respect to continuing education for professionals that "Both anecdotal evidence and rigorous research support the notion that professionals' participation in educative activities is related to their zest for learning. Those who have a great deal of interest in learning participate in a greater number of activities as well as different types of activities." (p.69). Law schools must take a role in fostering self-directed learning with the assumption that lawyers must continue to develop their own educational program following graduation. Law schools should also help to ensure that learning itself is an enjoyable experience which will encourage future learning initiatives.

While there may be divergent opinions about how law schools should adapt to changing times, there has been at least a general consensus that the ultimate impact of technological change and the exponential increase in information has resulted in much greater complexity and sophistication of even the traditional study of law. The consequence for both the law student and the legal practitioner has often been a sense of being overwhelmed by adjusting to change and the sheer quantity of information. London (Esau & Penner (Eds): 1990) stated that,

> There is no question that the computer, the fax machine and the Xerox copier have changed the practice of law ... (but) the most important difference between then and now is the overwhelming increase in personal stress. I don't think I can emphasize that phenomenon too much ...
>
> When I look at the difference in practicing in the tax field, for example, between the sorts of business concerns, let alone legislation, that one has to take into account today as opposed to 27 years ago, it's the difference between kindergarten and university, to use an educational metaphor. It is incredibly complex. (p. 6-7)

The ever-expanding body of knowledge will by necessity require corresponding changes to teaching methods. The result has been that law schools have tried to find the often elusive balance between imparting knowledge and yet offering an appropriate mix of breadth and depth in specific legal subject areas. Unfortunately, there has been little done to provide guidance to law faculties in Canada. This has been further exacerbated by the increasing division between practitioners and academics. There has been little serious dialogue about the necessary skills and knowledge from a practitioners view and what is thought to be of value from an academic perspective. Arthurs (1995) predicted that serious consequences for the future of the profession would result from,

> ... (the) serious divergences between the academy and the practicing Bar. To offer you a thumbnail history of Canadian legal education, law teaching was once dominated by part-time lecturers who epitomized the values, knowledge and preoccupations of the practicing Bar. Today, legal academics look pretty much like other university professors, with

> similar credentials, career patterns ... and with essentially similar intellectual interests. Precisely because of these intellectual interests, the law teachers' drift, away from the Bar and towards academe is likely to accelerate ...
>
> We can already see the early effects of this process. Senior - and not-so-senior - practitioners are often surprised and occasionally alienated by what recent graduates regard as legitimate forms of professional knowledge - especially by "radical" forms of knowledge. (p. 302-303)

Law schools need to take the initiative in restoring contact with the profession. The law faculty should be prepared to teach a broad range of courses or find sessional or adjunct professors from the private bar to assist. In addition to developing the capacity to teach more practice-oriented courses, the faculty should also provide a balance between these types of courses and others of a more highly theoretical nature (i.e. perspectives on the law courses). Legal analysis and reasoning and legal research are standard courses but other lawyering skills are equally important and are often neglected in the law school curriculum. Through the development of clinical programs and courses with a practical component it will be possible for the law school to offer a more diverse program that allows students more practice oriented options. MacCrate (1992) stated that

> ... observations suggest a continuum in which law schools and the practicing bar should participate jointly in the professional development of lawyers, it is important for legal educators and practicing lawyers to recognize that they have different capacities and opportunities to impart these skills and values to future lawyers. (p.234)

The resource of practitioners as instructors should therefore not be forgotten by the faculty and every effort should be made to make the education of future lawyers the joint responsibility of the private bar lawyers and the law professors.

2) Too Many Graduates? - Not Enough Jobs

There was a general consensus of participants that there are too few positions in the profession of law for the number of law graduates. This has meant in recent years that a certain percentage of graduates cannot enter, or continue working in, the legal profession. This percentage, who are either unable to find articles, or keep working after completing articles, has been increasing each year. It is a fairly recent phenomenon which is particularly disturbing as it is occurring at a time when record number of more senior practitioners are also leaving legal practice. Despite the attrition of lawyers leaving the profession this does not seem to be resolving the problem.

The issue of the number of graduates has been of significant concern in Canada for at least a decade. In 1987, "... the problem of numbers and the widespread belief within the profession that there are too many lawyers now and that law schools should not be releasing nearly so many ..." (p.147) was the subject of discussion between Wilkins and an official of the Ontario Bar Association (Wilkins:1987). The issue at the time was that the official was concerned because he had been visited by,

> ... (a) number of lawyers one and two years after joining the bar who had not yet found positions ... He was struck, he said, by the strength of their sense that the legal profession owed them something in return for all they had given up to equip themselves for practice. (p.147)

Le Brun & Johnstone (1994) similarly identified this as being a significant problem in Australia. "Some people face the prospect of long-term unemployment, while others fear that they will never secure jobs. Even those who succeed may find that they are locked out of opportunities for promotion as various "glass ceilings" are encountered." (p.15)

Unfortunately, those interviewed indicated that the problem has not only continued but has, in fact, become more serious and widespread. Of the individuals interviewed, there were two participants who had been unable to find work as lawyers following the year of articles and a third participant who since the interview has been given notification that her contract position will not be extended. The situation continues to worsen and now, in addition to the problem of securing work after the one year of articles and passing the Bar examinations, there are a growing number of law graduates who are unable even to secure articles. If a graduate is unable to find an articling position they cannot complete their professional education and are precluded from admission to the bar and the right to practice law.

Lowering the number of students admitted to the law program was one solution raised by the participants. Although it seemed "necessary", it was not favoured as a response to the problem. In considering the issue of quotas, "Brian" felt that the law faculty should at least consider a "... policy about whether they should admit fewer students. While he recognized that "... at some point that becomes elitist ... on the other hand do you allow people to enter law school so that they can, broaden their horizons and get a good education ... knowing that there isn't going to be jobs for everybody (who) graduates." "Mable" also stated that she felt cut backs in enrollment were absolutely necessary, although she was similarly worried about the impact of quotas. Her concern stemmed from the fact that at the present time law schools are not reflective of the general population and there was a definite need to attract a greater diversity of students from the general population. This would potentially be thwarted if stricter quotas were enforced and marks were the sole determinant of entrance to the law program given that traditional methods of determining admission tend to favour certain groups in society. The research into current admissions processes, would lend support to this view. According to Alvi et. al (1991):

> ... (admission criteria) favour students from family and cultural situations that encourage them (the student) to aspire to such educational opportunities in the first place ... reliance upon success at the undergraduate level of the existing educational system fails to take into account the impact of systemic discrimination on many less advantaged communities.

In fact, Thornhill (1995) reported that law schools as the prime gatekeepers of the profession have failed to equally allocate access to all groups in Canadian society:

> A 1992 Justice Canada report surveying ten law schools in Canada concluded that discrimination attributed to race or ethnicity both observed and experienced by "Visible Minorities" and First nations peoples was reported: outside the law school; within the law school;

> perpetuated by both students and professors alike; and also during the application for admission process. (p.814)

Quotas, of course, have always been an issue in professional programs but in recent years debate on this topic seemed particularly acute in legal education. The realities of the post-graduation struggle for employment in law was a harsh contrast with the high expectations of students entering the profession. Participants each had their own variations on the theme of securing or attempting to find satisfying work. Much interest was generated by this topic although the sentiments expressed were often very grim particularly for future law graduates.

Alternate Careers

One solution recommended by participants was to re-think the purpose of the law degree. Law graduates may have to be prepared to see a law degree as a general preparation for a broad variety of careers rather than as a specialized degree which only leads to one career path. "George" was one of the four participants who had voluntarily left the practice of law. In his case he had been in a large firm, then practiced as a sole practitioner and at the time of the interview had chosen a lucrative and rewarding alternate career. "George" would not want to see legal education limited in terms of decreasing enrollment or restricting the focus of law school to a more practice orientation. In fact, he thought that the greatest challenge of law schools today was bridging the gap between expectations of law students and the realities of the work-place.

> I think that my own expectation going into law school was that I would be practicing law for the balance of my professional life and I think ... the over-whelming majority of people both those who apply to law school, and members of the general public, believe that (the training of lawyers) is the function of law school.
>
> I think that (it) should be made known both to people who apply to law school, and to members of the general public at large, that law schools can serve a more diverse function and that a legal education can be a very useful background for many different areas of endeavour.

"Peggy" was clearly in agreement when she expressed that law schools should take the initiative of encouraging students to broaden their perspective of what a legal background can mean in terms of employment options. The greatest challenge, in her view, was,

> ... the number of people still wanting to go into the traditional law practice given that there aren't the jobs anymore ... I think their (the law school's) challenge is to show people what they can do with a law degree other than practice in a big downtown firm.

Law Schools Role in Post-graduation Transition & Placement

Participants recommended two alternatives to stricter quota's on the number of law students admitted to law school. They were:

> 1) the law school could assist students to access employment opportunities both in the field of law and also in alternate careers; and
>
> 2) the law school could ensure that graduates have the requisite knowledge and skills necessary to compete effectively in the work-place if graduates found that the only way they could practice law was to open their own sole-practitioner office following articles.

According to "Brian" - The greatest challenge for law schools was, "... not guaranteeing but providing employment opportunities." Clearly in agreement with this position was "Benjamin" who stated that "... law school should be doing placements ... of students and ensuring that they continue through to meaningful careers." The role of the law school was not limited to simply assisting in the placement of students. "Brian" suggested that the law school must ensure that students are adequately educated to meet the challenges of the work-place:

> Balancing traditional education (and) core curriculum ... keeping the education contemporary and meaningful ... (and providing) a practical aspect to your education as well especially with a career focus, so that

> you come out not with just a purely academic understanding, but also an ability to move fluidly into your practice.

"Peter" - agreed that law schools must consider offering practical courses that would assist students in the transition to the business realities of the nineties. He commented that students are coming out of law school and many of them are not getting kept on at the law firm where they articled. These graduates are then, "... faced with the problem of looking for either alternate careers, or having to learn very quickly how to run a small business. We were taught nothing about running a business in law school, and that is probably one of the things that should be included in the practical side of things in school."

Need For Action

"Richard" commented that he was fortunate that he was able to find an articling position and is now called to the Bar. For close to two years, however, he had been unable to find work as a lawyer. He stated that law schools either need to incorporate a more practical focus or consider shortening the law school and extending articles which will provide the necessary practical work experience to the graduate. In this way, the person would be better prepared to become a practicing lawyer. Particularly for those who are unable to find permanent work in a law firm after articles, if they want to practice law it means that they,

> ... are coming out of articles and having to start their own firms. I don't know if a lot of the people are really adequately trained to have all the skills to really give people adequate legal advice, to adequately represent them in court ...", when they have only had one year of articles following an academically focused degree.

"Richard" continued his reflections, "I think it is really disillusioning, a lot of people ... come out of law school and find that there's really no work." It's not only a struggle to find work but also to maintain employment, as much of the work is simply short-term contracts. "Richard" was divided on the question of "limiting the flow" of people into law school as this means denying some people the opportunity of a legal education. According to "Richard" this would be unfortunate, for, in his words, " ... people are entitled to a legal education, for its own sake" whether or not they ultimately go on to become practicing lawyers.

While quotas were not favoured, even fewer participants supported the option of maintaining current admissions and simply failing more students. Generally the law school program was perceived as stressful. A higher failure rate would only exacerbate this situation. Many participants also expressed little faith in the law faculty as arbiters of later success as a lawyer. In fact, current evaluation systems were perceived to be poor indicators of an individual's capabilities, either as a student or as a future professional.

It was beyond the ambit of this research to consider the impact on society, or the profession, of the phenomenal growth in the number of law graduates which has led to difficulties in securing articles or employment. The ever-increasing numbers of law graduates have created at least one serious problem for law schools, however, which participants believed needed to be addressed: the role that marks play in determining future prospects of employment. Whether or not law schools chose to restrict the number of graduates, they must recognize that in the present market-place, a student's marks largely determine whether or not that individual will have the opportunity to ultimately practice law.

"Richard" has personally experienced the frustration of a thwarted career in law, yet he was emphatic that all graduates should, "... have the opportunity ... to become a lawyer and it shouldn't necessarily be all on marks." In the final analysis he concluded that it was a difficult issue that the, "... law societies and the law schools are going to have to really address ... they owe people that."

In the past the marks that a student received had an initial impact upon the options that were open to that individual. (Wilkins:1987) Options increased in terms of the range and quality of articling positions if higher marks were attained. Students who performed well generally had more choice in terms of area of practice and type of law firm. Alternatives such as articling with the Courts or pursuing a Masters of Law degree were only open to those with the highest marks. After articles, however, the marks that an individual received in law school generally became much less important and success in practice was perceived to have little correlation to academic achievement at law school.

Unfortunately, the present situation has become much more serious as graduates with lower marks may find that they are unable to find a law firm willing to take them on for the requisite year of articles due to the saturation of the market-place. If marks preclude the graduate from securing articles then the law school has effectively determined who has the right to practice law in the future and who does not have this opportunity. This would only be justified if the current marking system measured future effectiveness as a lawyer. Those who were interviewed agreed with leading legal educators that marks do not assess or indicate future ability to practice law.

(Feinman and Feldman:1985) "Ranking in legal education is misleading because it does not make a meaningful statement about student ability. Grades that are the product of a learning system with a defective critical process and a limited scope of evaluation do not provide a meaningful statement of the students promise as a lawyer." (p. 547) (emphasis added)

Wilkins (1987) also criticized the marking system of law schools particularly the over-reliance upon the use of examinations as a tool of evaluation. Marks are not only a poor indicator of future effectiveness as a lawyer, they are often not even an adequate measure of current performance.
Wilkins (1987) continued by commenting that,

> The problem is not with their precision; exam results can, no doubt, be used - or gerrymandered - to produce a discrete ordering of all students

> in every case. The problem is to understand what relevance such rankings could possibly have, when they result so obviously from measurement of the wrong thing.

He goes on to add,

> Law school grades are engineered and produced to help the wholesale legal trade tell different law students apart ... All this makes final exams untrustworthy indicators of real legal competence, unfit instruments for use in checking readiness for more advanced work, or for the responsibilities of law practice. (p.128).

As marks may now be instrumental in closing the door to future prospects of practicing law, the law schools have an increased responsibility to demonstrate that marks indicate future ability to practice law. Otherwise maintaining current methods of evaluation become a grievous injustice, if the impact of the marking system is to preclude certain individuals from the practice of law. Law schools can no longer rely on later career developments in an individuals life to rectify an inadequate evaluation system. This issue will become increasingly important as more and more graduates are directly impacted by a negative law school evaluation.

Wilkins (1987) stressed the power of the law faculty to determine future careers even before the problem of finding and securing an articling position arose, " .... (the law faculty) cannot fail to appreciate just how much leverage they have over the shape and the inflection of their students lives during those three years. Careers and relationships can be forged or broken, opportunities realized or irretrievably lost in the space of that time." (p.115-116) This is not a position to take lightly, particularly in these more competitive times when there may be little opportunity for graduates to over-come their past ranking in law school whether relevant or not to their future endeavours.

Law schools must address the question, whether it is "fair" to admit students into a professional degree program, with the attendant investment of time and money, when the ultimate prospects of employment or potentially even entering the profession as a full-fledged lawyer are not the best. Le Brun & Johnstone (1994) thought that as a result of the current employment situation, there would ultimately be a readjustment in the number of students in law schools.

> ... we must anticipate that the demand for legal education will level off and probably decrease once prospective students think the market for law graduates is saturated. (p. 381)

There has been little evidence to suggest that enrollment has declined as predicated and many participants believed that it was unrealistic to rely on a market-place adjustment. Nor was this considered a responsible position for the law faculty to take. "Raymond" asserted that,

> There's no way that the law community, society, can accommodate the number of lawyers that get "spewed" out every year. There's just no way. And maybe the market will take care of that, but it's not fair to have these people come out...

The result of not finding work on graduation is not simply a statistical problem, it is an issue with a "human side" according to "Penny". She identified the greatest challenge in legal education to be,

> The fact that we're producing too many, too, too many lawyers. And that these poor kids are coming out right now with no jobs or very poor jobs and no hope of ever recouping the money they've spent for student loans over a LONG education.

The lack of evidence to support any re-adjustment in enrollment has been evidenced by the fact that there continues to be many more applicants, than there are positions in Canadian law schools. The optimism may be accounted for, at least in part, by the confidence that each individual brings to law school. Acceptance into the law program is based on increasingly exceptional performance in an under-graduate degree. Each student enters the program believing on the strength of their past successes that law school will reward their efforts with meritorious marks similar to those achieved in the past. Unfortunately the majority of students cannot maintain their past standing in the top 10% of the class when they are now competing with other students with similarly exceptional education back-grounds. Clearly 90% of the students must lose in the law school lottery of marks.

The competitive struggle for marks and recognition in law school often leaves deep feelings of inadequacy and failure for the majority of students who no longer pull top grades. When this translates into the inability to find articles or work as a practicing lawyer than the result can be an over-all loss of identity, loss of peer group and even loss of friendships. Law schools need to carefully consider the dictates of a new economic climate and the impact this has on the law school environment. Those elements within the control of the law faculty should be addressed including the ramifications of the job market on aspects of law school including current evaluation systems.

"Timothy" believed that, "Finding jobs for all the people who graduated." was the greatest challenge in legal education. He estimated that "... 30% of the people coming out now, cannot find a job at all!" and he criticized those who contend that law school should not be geared toward producing practicing lawyers. The fact that a significant proportion of the recent graduating classes cannot find work is, "... not a problem if law school is purely an academic exercise, but everybody sure talks about it like it is a problem ..."

In concluding this section, the comments of three participants provide a summary of the central theme: "Too many graduates - not enough jobs!"

a) Law schools have an obligation to re-think legal education and incorporate practical experience;

"Janet" discussed two key issues in legal education which are inter-related: 1) the quality of the articling experience; and 2) the "... huge number of graduates that are coming out of law school, with the idea that all they can do is practice with a law degree." She criticized law schools for not accepting the challenge of either cutting back the number of people admitted or taking a more responsible role in the transition to either legal or alternate careers. Particularly in respect to articles, she was disturbed by the "hands-off" policy of the law school. "The law school party line is that, "We're not here to train lawyers, we're not here to give you your practical teaching, that's the law firms job when they hire you for articles." ... (then - the law schools) have a responsibility to really take a good hard look at the quality of articles out there and ... in fairness communicate to people that you may or may not get decent practical training."

b) There will be a serious back-lash if legal education does not properly prepare students for the current work environment;

"Jonathan" - "Well I think that the law schools today are dealing with (a) very practical, very difficult problem, in that, they have to prepare the students for a very competitive world. You know, the lawyers in (this province) have probably doubled in the last ten years." He considered the question of whether or not it is the role of law school to address this issue. In response to those who would argue that laws schools need not consider these issues because they are only dealing with theoretical legal education, he stated,

> I think that they cannot divorce themselves from the realities of the market-place out there ... they are graduating too many, too many individuals, it's not healthy for the system ... (although) there's all kind of alternate careers ... the expectation is that most of these people will want to practice as lawyers.

"Jonathan", similar to "Raymond", also predicted a negative back-lash if law schools do not address this problem: "... right now law schools are trying to say, "It's not our problem, it's the professions problem ...". It's going to become more and more of their problem because I think there's going to be more and more resistance and criticism as people get out and say, "Hey! I thought that I'd be able to earn a living at this and I really can't! - There's just not the places or not the demand, so why didn't you tell me the reality of this at the start?"

c) If nothing is done to address the situation then it will reflect badly upon the law school and the legal profession;

"Victor" considered the question of whether the law schools were graduating too many students and believed it was an issue that must be addressed, "... if for no other reason than in a purely human sense in that you put somebody through three years of school and a year of articling and then for there to be no jobs or un-fulfilling jobs, it's in the end counter-productive. It will reflect badly on the profession and the institutions that graduate the lawyers".

3) Core Courses & Relevance

"Heather" commented that "... one issue has to be quality, to make sure that the candidates that are coming out of the law schools are at a certain, at least threshold level." Participants generally agreed that law schools should continue to emphasize the teaching of legal analysis and reasoning and legal research. What was often a matter of contention was whether clinical programs, which have the capacity to teach lawyering skills other than just the study of cases, are of any value.

"Dennis" emphasized that the key element in determining a core curriculum was setting the aims and objectives: "I mean what do you want a law school to be? I mean that's the question that has to be answered." He continued by stating that,

> Given my idea of lawyers as technicians ... I don't think there's any reason that it couldn't be held at (a local trade school) ... you could teach the basics but most of it has to be learned on the job.

While other participants were less extreme in stressing the practical component, the majority supported a curriculum which would balance theory with practice. The practical component would include the teaching of skills associated with practice. While many law faculties have been reluctant to take on this role, the law school is, in fact, in a unique position to expose students to the full range of these practice skills. This was seen as an opportunity which might not be readily available to graduates in actual practice.

Another issue identified by "Heather" in respect to core curriculum was the following challenge

> ... (to) stay relevant with the changes that are going on in the profession, so that the courses they are offering are still at the brink or the forefront of what's happening in the law.

Teaching the core curriculum was central to the law school program, according to "Heather" and there was a need to keep "... a focus on teaching despite all of the pressures for academics to be publishing or writing or researching."

"Lynne" believed that,

> ... the greatest challenge they have is giving each individual student the education that they want. I think there are a lot of people demanding very different things from their legal education. There are people who want to come out as practitioners and people who want to come out and do Master's degrees and teach and what they want is very different.

She would not like to see law school become a "... trade school, but there are a lot of people pushing for that." She believed that the situation would become increasingly intense,

> ... I think they're going to find more and more pressure again to make practitioners coming out of Law school because law is becoming much more of a business than a profession and in some respects you have to hit the ground running ... where you used to have the luxury of being trained for a year or two by a mentor that's just not happening anymore and students are having to become a little bit more self sufficient.

> ... you need the background in practical matters that law school just doesn't give you, but at the same time law schools will still be expected to provide the theory and the background that is necessary to practice as a lawyer.

"Betty" thought that the biggest issue in legal education was the same as the challenge for the university in general - "... resisting privatization and resisting the encroachment of business interests into the curriculum." She was concerned because of the budget cut-backs, that the universities "... are trying more and more to get private funding which means big business a lot of the time. Big business is demanding that graduates of universities come out job-ready ... with qualifications tailored to their businesses." Students who are worried about getting a job may allow the practicalities of the market place to unduly influence their individual program of study. On the other-hand, students who take a less practical bent may be penalized when the search for work begins.

One of the strongest statements on the importance of core courses was made by "Greg" who stated,

> I think law schools are trying to respond to every pressure group and it is a challenge for them to remember that there are some fundamentals that they have to teach and if you don't get the fundamentals first, you can't get anywhere else.

One of the central problems has been the lack of guidance in respect to courses which might constitute a "core" curriculum particularly in second or third year. There has never been a thorough, formal identification of the objectives or requisite course work of law school's in Canada. It was therefore not surprising that law schools simply add or drop courses from the calendar, often with little regard for an over-all strategy to legal education. Unfortunately this can have serious ramifications for the individual student who may actually lose out on employment opportunities as a result of a poorly selected law school program.

In fact, several of the participants of Focus Group #2 had been members of hiring panels for their law firms and many agreed with "Greg" that while certain courses may look good in the calendar they won't necessarily impress the lawyers who are hiring law students for articles. While participants commented that students should be told that their course selection was a factor in not getting a job, it was recognized that it was already too late at that point in time to be of any assistance to the individual. Certainly a significant number of the participants expressed the belief that a program of courses should reflect essential subject area content. This provides the necessary background for the practice of law. Yet participants recognized that students often lack any guidance in selecting courses and making appropriate choices. There needs to be a clearer statement on what is necessary if the individual intends to practice law and some recognition by law school faculty that the vast majority of law students DO intend to practice law. "Ella" stated that "99% of the people there, are there to get an article. That is the reason that they're in law school."

While little has been done recently in Canada to further discussion on the setting of core curriculum, the importance of this issue has been recognized in other countries in the past decade and a number of major reports have been generated. The American Bar Association in the United States has recently issued a comprehensive review of the issue in, "The Report of the Task Force on Law Schools and The Profession: Narrowing the Gap" (1992), commonly referred to as the "MacCrate Report". In Australia, Pearce, Campbell and Harding in 1987 published the Australian Law Schools: A Discipline Assessment for the Commonwealth Tertiary Education Commission. The "Pearce Report" criticized current methods of legal education in Australia and challenged legal academics to consider significant changes to the traditional curriculum and methods of teaching and learning.

The only major Canadian report on the education of law students and lawyers was published as a summary of a 1985 National conference on legal education sponsored by Federation of Law Societies of Canada with the cooperation of the Canadian

Association of Law Teachers and the Committee of Canadian Law Deans. Unlike the other two reports, however, there were no recommendations made in respect to the development of a core curriculum. In fact, the objectives which were developed were quite basic and primarily aimed at sharing information and simply fostering consultation and cooperation between law schools. (Matas & McCawley (eds.):1987:p.83)

In contrast, the "MacCrate Report" actually listed ten fundamental lawyering skills and four specific values of the legal profession which were considered to be essential in the inclusion of a quality law school curriculum. (p.325-338) While less detailed then the American study, the key contribution of the "Pearce Report", was it's over-all critique of current Australian legal education practices. These practices are similar to Canadian law schools, particularly the reliance upon Langdell's Socratic method and case analysis as the primary methods of instruction. According to Le Brun and Johnstone (1994) the "Pearce Report" faulted "The preoccupation of many law teachers with rule orientation, legal reasoning, and curriculum coverage ... (and) linked (this) with the work of Langdell and others of similar vision." (p.21) While the report was not necessarily well-received by professors, it was crucial in the initiation of necessary changes. Le Brun & Johnstone (1994) stated that,

> The Pearce Report (Pearce, Campbell, and Harding, (1987)) contained some of the most swingeing criticisms of legal education in Australia. The Report, which has not been warmly embraced by all legal academics, may well have acted as a catalyst for reform in some Australian law schools, at least in the area of piecemeal curriculum reform. If nothing more, it provided a justification for change which many scholars needed. (p.26:Note 84)

Unfortunately Canadian law schools have not had the benefit of a comprehensive report on legal education and therefore any modifications which are made to individual programs are not part of a coordinated, over-all plan. In many cases there has been little motivation to change particularly in this era of budgetary restraints which often encourages entrenchment rather than initiative.

4) Balance Between Theory and Practice

One of the problems identified by participants was the lack of consensus or clear direction on the aims and objectives of a legal education. According to "Charles" an over-all lack of understanding between the law student and the law faculty as to the outcomes of a legal education accounted for much of the dissatisfaction expressed by graduates. Criticisms that former students have of their law school often stem back to this mis-communication of objectives. Expectations that students bring to the law school experience often result in disappointment when faced with the reality of law school studies. "Charles" stated that "... a lot of students going in (to law school) want to be lawyers, so they're looking at it as more of a trade school, where it is still an academic school." Once he identified this issue, "Charles" continued by stressing that the law faculty has a responsibility to let potential students know that it is not a "trade school" and if there is no intention on the part of the law faculty to change law school to meet student expectations then, "It's got to really be "sold" as an academic endeavour, if that's the way they're going to keep it."

The decision to "keep it academic" would not be "Charles" preference. He believed that law school needed to change so that it was less academically oriented and more in line with what the majority of students expect - a preparation for a career in law. In summing up, "Charles" voiced the opinion of many participants, when he stressed that there were only two options available:

1) either law schools must cut back on the numbers; or
2) they have to change the focus of the program so that graduates are better able to enter the field of law.

At the very least there should be a closer alignment between the practical needs of students and the aims of the law school. McCormack (1987) stated that it was,

> Only after graduation (that) young attorneys come to the depressing realization that 90 percent of what they were taught in academia will never be used in practice; and conversely, 90 percent of what they need to know was never taught to them at school. (p.28)

If true, this would be an unfortunate reflection on legal education. While the academic focus of instruction was faulted, the author felt that this was largely predetermined by the selection of non-practitioners as faculty. McCormack (1987) commented that,

> Law school professors are admirably equipped to teach reasoning and theory. But it is the rare academic who has the foggiest notion of what really goes on in the trenches. So the fact remains that law school doesn't teach people the things they'll be doing day in, day out, as lawyers. (p.47)

One way of addressing this issue would be selecting alternate methods of hiring faculty in order to ensure a better representation of practitioners. Another alternative would be the use of clinics or simulations where students could learn practical skills and knowledge while actively engaged in the practice of law. The majority of participants found that when law was learned in context, combining theory and practice, this was very beneficial as it fostered long-term learning. In response to those who favour the current curriculum and contend that focusing on practical skills somehow diminishes the law school program, Le Brun & Johnstone (1994) countered that,

> Many skills and attitudes which are vocationally focused in fact provide an appropriate framework within which broader educational goals can be best achieved. By placing learning in a meaningful context, learning becomes relevant and, thus, more meaningful. (p.13)

Participants generally agreed that curriculum at law school would be much improved if in the future the law faculty were to explore ways of combining theory with practice. In fact, advice from participants to the law faculty suggested that much could be learned from simply following the Chinese Proverb:

> Tell me, I'll forget. Show me, I may remember. But involve me and I'll understand.

5) Brief Review of Legal Education Reform Movements

There has been ongoing criticism of the law school curriculum in both Canada and in the United States. The primary difference between the two countries has been, however, that the United States has allocated significant time and resources towards producing several reports on legal education. As early as 1920, the United States developed several legal education theories which were critical of the education practices in law schools at that time. It is unfortunate that past criticisms of the curriculum are often as valid today as they were then, particularly in respect to the need for practical instruction of law students.

In 1921, an American report - Training for the Public Profession of the Law - urged a second "track of studies" for more practice-oriented students. The Carrington report (1971-72) - New Directions in Education - elaborated on this two-track scheme and recommended that there be a further differentiation of training, more representative of the different kinds of tasks within the legal profession. The most recent study in the United States - the "MacCrate Report" (1992) broke some-what with this tradition as it was proposed that skills training and preparation for actual law practice be included as a of a single, core law school curriculum. Students would have the option of selecting a more or less practical orientation in their program of legal studies. Law schools would, in turn, be required to provide a sufficient practice component for all students who selected this option and some practice-component or skills courses would become part of the required curriculum.

In addition to the numerous studies and research reports, the United States has also had the benefit of several "movements" which focused on improving the law school curriculum and methodology from a particular philosophical perspective. Legal Realism was an early example of such a movement and it was very influential on the curriculum of some American law schools. The main proposition of the Legal Realist movement was that it was artificial to study legal rules where these are divorced from the social context. Gorman (1982) stated that as early as the 1920s, Columbia Law

School attempted to, "... break through doctrinal course barriers and to design teaching materials around ... functional themes." (p.315)

In contrast, Jerome Frank (1933) advocated for clinical training in law schools. He emphasized the need for more practice and less theory. This, in many ways was the polar opposite to the legal realist movement. Since the 1930's, when his recommendations for change of the curriculum were made, there has been a significant body of literature developed in the United States on clinical legal education.

According to Gorman (1982) this body of literature,

> ... tak(es) to task American law schools for their inattention to training in lawyering skills ... (this included a) 1979 report entitled Lawyer Competency: The Role of the Law Schools (prepared for the American Bar Association Section of Legal Education and Admissions to the Bar) and known as the Cramton Report. Although critical analysis of case materials is not altogether disparaged the clinical advocates would supplement it by closely supervised training in writing and drafting, advocacy, negotiation, counselling, interviewing, and fact-gathering. (p.316)

Although there have been significant developments in terms of diverse clinical programs in the United States, these clinics have generally not been well integrated into the core or main-stream curriculum. Unfortunately even in the United States where there has been significantly more research, informed debate, and recommendations made, change in legal education has been slow.

The "MacCrate report" (1992), was the most comprehensive American study of lawyers' educational and professional development needs to date. The written report was the result of an ambitious and thorough investigation by an American Bar Association (ABA) task force which studied the over-all issue of legal education between the years of 1989-1992. Rose (1994) described the process as follows:

> The task force operated through 7 subcommittees, held 4 public hearings and 7 plenary sessions, engaged in 1200 hours of work, conducted a survey of law school skills training, and produced an American Bar Foundation empirical study (Learning lawyering: Where do lawyers acquire practice skills). (Note 10:p.550)

Numerous recommendations were made in the "MacCrate report" on what more needs to be accomplished in legal education in the United States. This set the stage for ongoing dialogue between practitioners and academics based on not only the identification of core subject areas but also transferable skills and attitudes (values) which graduates should possess. Unfortunately, less has been accomplished in Canada, partially as a result of the lack of research and literature in respect to legal education.

A very brief reference to three other views on legal education was made by Gorman (1982). These include:

a) the use of electronic technology;
b) humanism; and
3) critical legal theory.

Each of these topics will be reviewed briefly with respect to the Canadian legal education environment.

a) Use of Electronic Technology:

In respect to electronic technology there was an identified need to ensure computer literacy of recent graduates which included familiarity with electronic research. There was also the need to explore alternate forms of course delivery including the use of (CAI) computer-assisted instruction. This has received some attention in the United States but generally multi-media including video demonstrations and CAI are still very much undeveloped fields in legal education in Canada. Computer literacy, whether or not it was used in the actual teaching of courses, was identified by participants as being a key component of a quality legal education.

b) Humanism:

Humanism was very popular in the 1970's and into the early 1980's as a philosophical approach to legal education but it has generally disappeared from the literature as an alternate teaching methodology in recent years. Beyond the incorporation of client counselling and interviewing as an option at most law schools in Canada, little else of the humanist movement has been adopted by law faculties in the 1990's. The comments of participants that touched on concern for the client, the revision of current impersonal teaching methodologies and the over-emphasis on a business centred curriculum suggest the need to revisit the incorporation of humanist principles in law school.

c) Critical Legal Perspectives:

The most influential educational philosophy at present is the critical legal education movement which has gained significant momentum in Canadian law schools in the past decade. Most law schools now offer courses from a critical legal perspective and students at some law schools are required to take at least one critical perspectives course. This development has not been referred to in this study as very few participants mentioned critical legal studies and there was no clear indication whether these courses were viewed as either beneficial or disadvantageous by participants.

The following two individuals found that "perspectives courses" were an important part of their legal education:

"Peggy" indicated that one of her more effective instructors taught a course on feminist jurisprudence. She was not sure whether it was the professor or the material that she liked so much but it was clearly one of her favourite courses from law school:

> I was just totally astounded by the kind of material that he would give us to read ... It was just nothing I'd heard about and it really opened my eyes. That was the one thing that I always liked about law school, was that course.

"Beatrice" found that she came out of law school more politicized, with,

> ... (a) much deeper and more articulate understanding of power relationships and politics ... I think that it's opened my eyes to other areas of interest. My reading interests have expanded. It's prompted me to want to go back to school again and maybe do a Masters of Law.

It was interesting to note that both participants used the phrase, the course "opened my eyes" in discussing their "perspectives" courses. This phrase was not used by any of the other participants to describe their legal education experience. Commentary on these courses was somewhat mixed, however, as a couple of participants criticized instructors of critical perspectives courses for "getting on a soap-box." Clearly a need for further study of this new area of legal education from the students' view-point was illustrated by discrepancy of opinion of the participants although it was not a focus of the research.

SUMMARY:

Law schools need to look seriously at the issues identified by the participants. One of the most pressing concerns is the number of graduates. While there was no agreement amongst participants in respect to tighter quotas, this must be seriously considered by law schools. If the law school decides to continue to graduate the same number of students then all other aspects of the law school program must be assessed. For example, the present system of evaluation was criticized by participants as being a poor method of determining who will do well in the practice of law. When the economy was growing it was possible for all graduates to find work and prove themselves in their profession. At that time there was less pressure on the law schools to revamp their marking systems. At present, however, there are a significant number of graduates who cannot even find articling positions and often members of this group are predominantly those students who received lower marks. As a result the law faculty has become a "gate-keeper" for the profession - not only in determining those who are admitted but also in the allocation of marks. This is simply one example of how the over-all legal education program must be revisited and reviewed to determine if it adequately meets the needs of the 1990's.

In addition, if the law school continues to admit the same number of students on the premise that not all law students will ultimately become lawyers and there are worthwhile alternate careers for graduates then:

1) this should be clear to prospective law students;

2) the stated objectives of the law school should be changed according;

3) the law school should provide a broader range of curriculum options with the opportunity to gain transferable knowledge and skills identified as necessary in alternative careers;

4) the underlying emphasis on "success" at law school as being the right to article with a large firm must be actively dismissed and replaced with a recognition that there are a broad range of ways to succeed with a background in law;

5) the law school should assist those students who intend to practice law in the future by providing skills courses and facilitating the transition to practice recognizing that individuals can no longer count on being kept on with a law firm after articles; and

6) for those who are willing to consider alternate careers, assistance should be provided in the consideration of options available and in the transition to the alternative career choice.

Law students, similar to law schools, will also have to be proactive in preparing for the future. In the words of "George," who recognized that law students had a role to play in setting their career focus, he advised them to, "... keep an open mind as to what your professional choices will be after graduation. You may not be doing what you think you're going to be doing when you enter law school."

The issues that participants identified must be adequately considered and addressed by law schools. The importance of determining the aims and objectives of law school, again surfaced as a fundamental consideration. The following questions must be considered:

> i) What do law schools set out to achieve?
>
> ii) Do the 1) members of Canadian society; 2) the Law Society; and 3) the students agree with the purpose of legal education as set by the law school?

The agenda should be clear and explicit. It must incorporate consideration of:

1) the recent changes in technology;
2) the rapidly expanding knowledge base in law;
3) the realities of the job market; and,
4) the needs of the three identified client groups.

While participants recognized that law schools could choose to do little about meeting the challenges they had identified, the impact of not dealing with these issues will only increase with each graduating class. If the situation is not addressed in a timely manner, then to repeat a common sentiment of the participants, the challenges will only become greater for law schools in the future!

CHAPTER 6

SUMMARY - CONCLUSIONS

INTRODUCTION

Quality in university education has long been a contentious subject particularly in the sphere of professional education. Student evaluations have become commonplace in recent years to assess individual courses and to provide feedback on elements of good teaching. Rarely, however, are entire programs of study reviewed. Participants in this research study were all law faculty graduates but individuals had attended different law faculties located in three provinces in Western Canada. Thus the program under review - law school - remained constant but the broad range of experiences provided an overall view of pre-professional legal education in Western Canada generally which would not have been possible through the evaluation of a single faculty.

It has also been uncustomary to canvas the reflections of graduates on their learning experience rather than students currently enrolled in a given program. Graduates, however, possess a unique perspective for they have gone on to work as professionals and have used the knowledge, skills and values acquired in university. The participants review of their legal education experience as former students provided a breadth and depth of commentary about program effectiveness and quality. This would not have been possible through an alternate research approach.

The findings of the study illustrate that the quality of legal education in Western Canada was a topic of great interest to former graduates. The primary message was balance. Participants responded to key legal education issues by mediating, divergent and often extreme, entrenched positions. Dissention which has arisen in the past between those who actually practice law and the academically oriented faculty who teach future lawyers was reflected in the study, but many participants tried to find the "high road" in this ongoing debate. Participants proposed changes and made recommendations which combined the best of both worlds in the improvement of legal education in Western Canadian.

Participants in this qualitative study identified some of the elements of a "quality" legal education experience. Any criticism's of, or praise for, the university law programs were grounded in actual experiences and there was much to be learned from the participants in respect to their experience of law school. The focus of the study was concentrated upon the teaching and learning of law, from a law student's perspective. While there were many positive experiences recounted by the participants, there were also situations recalled which indicated a definite need for improvement.

Change in over-all objectives, current methods of teaching, course content and a greater emphasis on practical skills and knowledge were recommended by participants. While a failure to change can frequently be the result of a lack of knowledge on how to change, the information from the participants was often quite specific. Centra (1993) criticized typical student evaluation forms for providing so little useful feedback. He stated that they are,

> ...long on judgement and short of helpful advice ... offer(ing) few suggestions for change except, perhaps, to make course objectives clearer. Many changes (recommended) in teaching practices are ... (simply) "tinkering," or minor course and instructional adjustments ... (p.11)

That was not the case in this study, where participants gave some very far reaching and detailed direction to law faculties in Western Canada, advising how programs could be significantly improved.

The importance of this research was, in part, related to the timing of the study which coincided with an increased demand for accountability in higher education facilities.

Within the next decade there will likely be increasing pressure brought to bear on the law faculties in Canada. In addition, much can be done to better meet the legal needs of the community by addressing the teaching of skills, knowledge and values that legal professionals must possess in order to better serve the public.

There was a recognized need to seriously evaluate what was being taught and to improve the teaching of future lawyers. There was no doubt that in this era of fiscal accountability, the day-to-day work of university professors as teachers will come increasingly under scrutiny. Canadian law schools are at a disadvantage as they have not been the subject of careful study in the past and therefore have been lulled into a false sense of security that whatever change need occur can happen gradually. The comments of former students have established that this would be a misguided presumption. The world has changed quickly and the university, particularly the law faculty which has been steeped in tradition and precedent, must be vigilant in responding to future challenges.

Throughout the research it was apparent that the relationship between theory, practice and research cannot be viewed as linear in nature. In order to understand and study in the field of higher education it was first necessary to understand that university professors are practitioners in education. According to Jarvis (1995), since adult and higher education are "... practice based, it is important for research into practice to discover both what actually occurs in the field and what is considered to be good practice." (p.265) Jarvis (1995) suggested that theory does not determine practice, nor does practice determine theory but that there was an indeterminate relationship between the two that allows for growth and change. This study has considered both the practice of pre-professional legal education, drawing upon the words of the participants, and related these comments to educational theory. In this way the theories of higher and adult education were combined with the study of the actual practice in law schools.

A set of principles or key themes arose from data analysis and a review of the literature, which supported comments of the participants. These were included in reference to quotations from the graduates, who provided valuable insights drawn from their education experiences at law school. The data were gathered and analyzed in order to assess and make recommendations on how to improve the quality of pre-professional education in law in Western Canada. The themes are compiled below in a summary of the research findings.

RESEARCH FINDINGS

To summarize, each theme has first been presented in a very brief over-view equated with the respective chapter in which the theme or themes were explored in greater detail. A more in-depth analysis of the data and theory follows which summarizes the contribution of the research to the field of higher education.

Chapter 2: Elements that Define a Quality Law School Experience

a) There was a recognized need to clarify the purpose of law school. The aims, objectives and out-comes need to be specified and evaluated; and

b) Law school was an important experience for graduates and the education received had a long-term impact on their lives. This included professional designation upon graduation, continuing friendships and an ongoing change in thinking processes.

Chapter 3: Teaching and Learning Dynamics - Formal

a) The "hidden" curriculum had a significant impact upon the student at least as significant as the "formal" curriculum. According to participants the law faculty only recognized the formal elements of a legal education as being significant;

b) Teaching and learning dynamics in law school are similar to other higher education faculties and there was a need to:

1) identify the elements of effective teaching; and
2) consider positive learning strategies in order to improve the quality of legal education.

c) There was a recognized dichotomy between the need to teach theory and practice although most participants recommended accommodating both in legal education. Questions were raised as to why this issue has not yet been addressed by law faculties as the majority of other pre-professional programs have already adopted a practicum component - integrating theory and practice at the university level.

Chapter 4: Informal Learning Experiences

a) Learning should incorporate professional practice in law school which would foster life-long learning and "reflection in action" as part of the educational experience;

b) Advice to law students on how to better "handle" law school which included an emphasis on the need for balance and ways to seek a well-rounded law school experience; and

c) Recognition that law school can have a negative psychological impact upon students and recommendations on how best to minimize this aspect of legal education;

Chapter 5: Current Challenges and Future Direction (in Legal Education)

a) Participants identified key challenges in legal education which law schools need to address in the next decade. Issues included changes, advances in technology, advent of the information age and fewer opportunities for traditional career advancement.

Chapter 1: Statement of the Problem (Research Plan)

The research was based on a qualitative paradigm with the intent of gathering together evidence from those most directly impacted by the quality of the legal education experience at law school. Participants were selected through a snow-balling technique and purposive sampling. Forty individuals provided data for this study. Data were first collected through two focus groups involving 20 individuals. The first focus group was unstructured and was essentially a discussion group. The second focus group was semi-structured and a series of guided questions were used. Next, 20 one-to-one interviews were conducted, subsequent to the focus groups, using a similar interview guide. Notes were taken by the researcher at the time of the first focus group. The second focus group session and all of the one-to-one interviews were taped with the participants approval and verbatim transcripts were made. Data were analyzed by the researcher through listening to the tapes and through reading and high-lighting key themes in the notes and transcripts. Data provided by each participant in the one-to-one interviews was also charted and cross-comparisons between participants were made.

Participant Response to Time Commitment

Many participants were surprised to be asked about their law school experiences yet despite busy schedules, every individual contacted agreed to participate if they were able to set up an appointment with the interviewer. Most of the lawyers were initially concerned about the length of time that an interview would take. When the response was that it could be as short as 1/2 hour for the one-to-one interviews, this was considered by most participants to be sufficient time to discuss their law school experiences.

As the person being interviewed determined the length of their responses to the questions, it was interesting to note that very few interviews lasted the minimum time requested of 30 minutes. Participants, while they may have been initially reluctant to allocate more than the half hour, often continued to talk well past the time allocation. Many appeared to find the experience of revisiting their law school experience as almost cathartic. Interviews ranged in length from thirty minutes to two hours in duration.

"Intensity" of Participant Involvement

Both the focus groups and the interviews tended to start very low key, however, participants generally became more animated and the intensity often increased dramatically. Participants recalled incidents that had obviously been very influential at the time and had left an indelible mark on their memory. Although their careers subsequent to law school had allowed little time for reflection upon this period of their life it was apparent that the experiences of law school had in no way been diminished by the passage of time.

The surprising intensity of the participants supported the premise of Galbraith (1991) when he stressed the importance of the close connection of the learner to the learning experience:

> Learning is frequently spoken of in highly emotional terms by adults describing their experiences. This hardly seems surprising, yet the emotional dimensions to learning receive scant attention indeed in formal research on adult education ...
>
> When learners speak about learning episodes which they remember with some emotion and which they recall vividly, the element of connectedness is frequently evident. By connectedness I mean that the event or episode has some deeply felt meaning for them.
>
> ... This concept of connectedness is hardly new in adult education. It is the focus of the oft-quoted injunction to "start where the students are" and its importance is attested to by adult educators as ideologically diverse as Paulo Friere, Malcolm Knowles, and Cyril Houle. (p.41-42)

It was considered important to use the "voices" of participants in the study. Themes explored always included direct quotations from either the focus groups or the individual one-to-one interviews. These quotes best illustrated the commonalities disclosed by the study and the strong emotions expressed by participants during the course of discussing law school experiences. There was clearly a need for additional in-depth research in this area as this study attempted to cover a very broad spectrum of topics. Certainly legal, pre-professional and higher education are all areas which require further study. Research in these areas would be particularly well-rounded and insightful if it considered both the perspectives of past graduates, in addition to canvassing the opinions of students currently enrolled in a program of studies.

Chapter 2: The Purpose of Law School

Need to clarify aims & objectives of legal education

The majority of participants stated that they attended law school expecting it would prepare them for the practice of law. The reviews were mixed on how well the law faculty succeeded in this aim. Certainly there was a lack of clarity as to whether this was even an objective which was shared by the law faculty. While most participants had indicated that they planned to practice law when they entered law school this did not settle the debate on the aims and objectives of law school. In fact, even when it was acknowledged that preparation for the practice of law was a primary aim of the law program there was still significant disagreement on how this could be best accomplished. In particular, the appropriate mix of theoretical (academic) education relative to the need for a practical skills, attitude and knowledge component was a debate which was not resolved by this study. Compromise between academic theory and practical skills training was a key-note of most participants who stressed that the highest quality of legal education experience at law school must of necessity combine both theory and practice.

There needs to be further exploration of law school education in Canada for while there are strengths, there are also identified areas which warrant improvement. Positive change hinged upon the law schools clarifying educational goals, preferably as part of an over-all analysis of the aims or "mission" of the law school. These objectives will need to be mindful of the needs of the students, the Law Society and the ultimate consumers of legal services - future clients. In the words of Lang (1990),

> A law school should not be merely an additional university philosophy department operating in a law building dominated by educators who are misinformed as to what lawyers do, further unaware of public needs for legal services or, in the alternative, have some awareness of both but take a "public be damned" attitude. (p.79)

Further study of this issue and coordinated debate which draws input from the three primary "interest" groups in defining the aims and objectives of legal education in Canada would provide guidance to both the law faculty and students.

Learning to think like a lawyer

The primary role of law school identified by participants was the teaching of a certain way of thinking. While it was recognized that law school must educate students in core legal subjects and prepare them for practice, these latter aims were not as consistently commented upon by participants as "learning to think like a lawyer." This was perceived to be one of the main objectives of a legal education. The phrase encompassed analysis and reasoning which were perceived of as the key skills acquired in law school and essential in the day-to-day practice of law. Over-all law school had to ensure that the student graduated with the ability to "think like a lawyer" if the legal educational experience was to be considered successful.

Participants had a range of ideas on how this was accomplished although the vast majority identified the study of cases and the examination methods employed by the law school as being the twin sources of this skill or ability. The teaching styles of law professors, which included the use of the Socratic method, were also mentioned although clearly thought to be much less influential in developing this skill.

Case law method of instruction

The case-law method was seen to be over-used in law school and there was a perception that alternate forms of dispute resolution were minimized. Participants indicated that a more realistic reflection of the practice of law would include the knowledge and skills necessary to resolve issues both inside and outside of the court forum. Overall participants felt that law school placed too much emphasis upon litigation and the resolution of legal matters by the courts.

Narrow focus of law school

Law school was thought to be narrow in focus and that generally there not the same level of enjoyment in learning as participants had experienced in their undergraduate years particularly if the participant had received a degree from the Arts faculty.

"Big-firm" emphasis

There was an under-lying emphasis in law school on a big-firm mentality which had a negative impact upon student collegiality and also brought undue pressure upon students to perform well academically. There was also a common perception that only the most "successful" students would get articles in a larger firm.

Positive outcomes

There were many positive outcomes of a legal education including professional accreditation and less obvious but also very influential outcomes of friendship and service to society.

Generally the elements which defined a "quality" legal education experience hinged upon first determining the aims and objectives of law school. As these have yet to be adequately circumscribed there was a vacuum identified by participants whereby it was difficult to adequately address the issue of "quality" unless the participant was willing and able to first determine what the aims and objectives of law school were from their own experience. Only then was it possible to set out the elements that would meet those prescribed ends. Clearly there was an identified need for Canadian law schools to clarify the aims and objectives through broad based initiatives involving key interest groups. Further study of this issue should draw upon the experience of law schools in other jurisdictions, particularly in Australia, England and the United States. These countries have all set aside time and resources to address the issue of identifying the aims and objectives of law school and have conducted research in this area. This has yet to be done in Canada, yet participants distinctly recognized the need for this to happen if a quality legal education experience is to be realized.

Chapter 3 - Teaching and Learning Dynamics - Formal Learning

Law schools have traditionally hired faculty for their subject expertise. They may or may not be necessarily adept educators. The improvement of teaching at law school will therefore not be an easy task nor one which will be readily undertaken. Gordon (1994) observed that the lack of teaching ability in law school was, "... not completely the law professor's fault ... they have no training whatsoever in teaching.

Law school deans claim that attending law school itself is enough to qualify a person to teach law school." Gordon (1994) continued on a humorous note when he commented,

> Fortunately, we don't hire our elementary school teachers that way. We require extensive training in education before we let anyone even stand in front of a kindergarten class. This is true at every level of the educational system except where teaching is the most complicated - the university. There, we let everyone wing it. (p.27)

The fact that law professors were not well prepared nor necessarily well suited for their teaching role was a factor noted by participants.

The attributes of a good instructor were found to be very similar to traits identified in higher and adult education research literature. "Beatrice," one of the participants stated that,

> There's something about good teaching no matter what the age of people or the subject being taught, there are qualities of good teaching. They love their subject, they're enthusiastic, they give lots of examples ... (and) use a variety of teaching techniques. They don't always lecture.

For a truly quality educational experience, instructors had to be excellent communicators and care about the students learning. Participants identified individuals as being superior instructors based upon the objective evidence that they possess the necessary teaching skills and ability. This depended more on their natural or learned teaching ability than upon what their full-time occupation was. Most participants found that there was no direct correlation between whether or not the instructor taught on a full-time basis or practiced law and their ability to teach. In fact, full time instructors were not necessarily selected by participants as being the more effective teachers.

Again, most participants found that there was a need for balancing theory and practice in classroom presentations and in some respects practicing lawyers seemed to have a slight advantage in providing this mix. Participants commented that the full-time academic instructor needed to "ground" their theoretical subject matter in a practical context so that students could better relate to the material. For instructors who were practitioners of law, it was necessary to include a theoretical component in presenting the more day to day practicalities of the law. Participants stressed that the best instructors were able to draw on both academic theory and experiential practice and incorporate elements of both in the classroom.

Unfortunately the examples of excellent instructors were relatively rare and certainly much needs to be done according to participants if the ideal stated by LeBrun & Johnstone (1994) were to be matched by faculty at law schools.

> University teaching is a profession and a scholarly activity which draws on a high level of competence in the discipline and/or relevant professional experience together with highly developed communication and interpersonal skills. (p.134)

In order to achieve this, LeBrun and Johnstone (1994) contended that university professors, "... need to acquire and develop (their) knowledge and understanding of a wide range of teaching and assessment methods and of the principles which underlie student learning." (p.134)

Assessment of Teaching and Learning

Ultimately, the evaluation of what was taught and how it was taught and the adaptation of teaching methodology to a changing world are not ends in and of themselves. Research and evaluation of teaching must always be aimed at enhancing student learning. Therefore, according to LeBrun & Johnstone (1994) in order to meet the challenges of law school education in the future and improve the quality of legal education it must be required that each instructor work within the law faculty

> ... to develop environments in which all of us teachers are aware of the research into the nature of good teaching, actively seek information on the effect of our teaching on our students, and are engaged in experimentation and animated discussion with our students and our colleagues about ways to improve teaching." (p.375-376)

Effective Teaching Strategies

Learning experiences must be tailored so that students are guided into activities that enable them to learn by deep engagement with the subject matter. Methods selected must promote student learning in a way which advances the specific educational objectives which are set out. There are numerous areas for further study and research in this respect. Clarification of the role of the professor in the teaching-learning transaction was one example highlighted by participants. On a continuum of teacher intervention from student-centred where the instructor was primarily facilitative to more instructor-centred and didactic, the participants identified the following three teaching strategies as being the more frequently used methods in legal education:

"Paper" Courses (Facilitative): Methods of instruction can be placed on a continuum of passive to active learning. At the passive end are lectures where students have very little or no active involvement. At the opposite end of the continuum of active learning would be independent study where students take the greatest responsibility for their own learning and where the instructor simply becomes a facilitator of the process. Many of the participants in the study commented on paper courses as being particularly good examples of a memorable learning experience. While these courses were perceived to allow the student to cover a specific topic in depth, the corresponding caution of some participants was that these courses do not provide the necessary breadth in scope required in core courses. Participants who preferred "paper courses," which are essentially independent study mixed with sessional instruction and or guest speakers, would have liked to have had the opportunity to register in more courses of this nature.

Socratic Method (Interactive): According to Centra (1993),

> Socrates dialectical exchange with his students, now known as the Socratic method continues to be used in college classrooms, particularly at law schools. Based on the premise that students learn to think by being actively engaged in questioning and problem solving, the Socratic method was probably the first cognitive approach to teaching. (p.21)

The Socratic approach received mixed reviews from participants and many, particularly recent graduates, expressed little knowledge of this method. This suggested that the use of the Socratic method has been decreasing in the last decade. Those participants who had experienced it, tended to criticize the approach and found that it had generated anxiety and stress for students. Many commented that professors could abuse the interaction between the student and the instructor to such an extent that it simply traumatized the student rather than fostering learning. While there may be potential for this method to be a positive and challenging approach to learning, the general consensus was that it was a method of instruction that was either not used or not used well.

Lecture Method (Didactic): McKeachie (1986) concluded that lecture method was as effective as other teaching methods when measures of knowledge were examined but was inferior when measures of knowledge transfer to new situations, attitude change, problem solving, or critical thinking were studied. According to Centra (1993),

> In spite of the limitations of the lecture, it is the primary or only method used by more than 80 percent of college teachers (Thielens, 1987; Blackburn, Pellino, Boberg, and O'Connell, 1980). (p.23)

Participants confirmed that lecturing was the primary method of instruction in law school. There was general agreement that it could be done well, but participants also recognized that there was a strong tendency to over-use this method. Participants estimated that the lecture method was used 90% of the time in the classroom. Despite the prevalence of lectures, many participants commented that quality was frequently poor and there was a need for the majority of instructors to improve their lecture style.

Research into the role of the instructor needs to include further study of the elements and outcomes of effective teaching strategies and methods. For example, if the lecture method was found to be used so extensively then there must be ways to improve the lecture as a teaching tool at law school. If interactive learning through class discussion and the Socratic method were found to be beneficial as long as instructors were sensitive to student needs, then the means to encourage better facilitation of class discussion and the fostering of a supportive learning environment in law school are important areas for further research. There should be no reason for students to experience feelings of trauma or discredit as a result of the in-class exchange of ideas. The need identified to continue to examine the Socratic and case method in law school must consider both expected and unanticipated outcomes for students. Professors need to know how to enhance the benefits of this approach while minimizing the negative outcomes. The role of the professor as facilitator in paper-courses and other self-directed learning experiences also needs to be the subject of further research.

Finally ways must be identified to foster professional development in respect to the teaching role of law professors and to encourage the use of a broader range of teaching methods. This should include the study of group learning, action learning, the problem method, simulations and role plays, mock trials, mooting and other activities where students can learn both legal theory and lawyering skills in the classroom. Clinical legal education can also be considered an extension of the action learning method whether or not the "clinic" involves real-life situations. Students in clinical programs are exposed to learning methods which will be required by the graduate in their continuing professional education and foster reflection-in-action necessary for learning in the work-place.

Research into the teaching methods used in law school and encouraging less reliance upon traditional classroom strategies, such as lecturing and the casebook (Socratic) method, are a necessary step in improving the over-all quality of legal education. Student learning needs to encompass a broader development of student skills, knowledge and values. To this end students should be actively encouraged to learn inside and outside of the classroom in ways which promote cooperative learning experiences as well as independent, life-long learning.

Effective Learning Strategies

"Learning is not a spectator sport"

Ettington:1984 in LeBrun & Johnstone (1994) p. 256

Participants were asked about their "learning experience" in law school as this was considered to encompass a broader concept than simply asking them about what was learned. Tyler (1949) stated that,

> The term "learning experience" is not the same as the content with which a course deals nor the activities performed by the teacher. The term "learning experience" refers to the interaction between the learner and external conditions in the environment to which he can react. Learning takes place through the active behaviour of the student; it is what he does that he learns, not what the teacher does. (p.63)

It would be quite possible for two students to be in the same class and yet for each to have two very different learning experiences. Yet there were commonalities which arose out of this study although the learning experience was considered from many different and individual perspectives. By studying the learning experiences of students the law professor should be able to improve their methods of instruction and better structure the curriculum to meet divergent student needs.

The principal focus of learning in higher education generally and in the law faculty should be on the student, and changes in the students conceptions of subject matter, rather than on the acquisition of factual information. If learners do not understand what they are learning then they will either not remember it or not be able to use it in the future to solve every day problems. To this end, learning experiences should be designed across a continuum so that students can exercise different levels of direction and control over their studies. There should be a broad range of experiences so that the locus of control shifts from the teacher to the student, giving the learner greater control over their own learning. The use of a variety of didactic, interactive and facilitative methods of instruction would foster deeper learning and a higher quality of educational outcomes.

One of the more serious criticisms of the law school as an educational experience was the impact of the marking system and methods of evaluation on the learner. The most profound consequence was the erosion of the students effective learning strategies. In fact, law school seemed to breed a deep insecurity in many students in respect to their innate abilities. Participants laid the blame for this on 100% final exams and the use of the bell-curve or other competitive marking schemes where students are judged in respect to their peers rather than in respect to their abilities. "Beatrice" was particularly candid in her criticism of law school from the perspective of learning,

> I was a victim of that process which makes you completely insecure about your academic skills. Even though I went to law school thinking that I was just as good as the next person ... it was a struggle to maintain that perspective and to believe that you weren't anything but a complete moron ...
>
> What that did to my learning strategy was ... I became almost paralyzed ... I've talked to other students who have said the same thing ... to say nervous wouldn't even begin to capture the feeling. I was so completely overwhelmed and stressed out by this insecurity about doing well academically ... I was literally too anxious to study.
>
> ... this anxiety that law school causes is very counter-productive because I think it doesn't free you up to try different things and to be more relaxed ... your question was about learning strategy, and it was important for me to talk to you, to tell you that law school generally undermines good learning strategies for people. That's my main message. It certainly did for me.

The literature supports the participants' experiences that marking can interfere with the quality of learning. According to Katz & Henry (1993) "The grading system is a familiar obstacle to student learning and development (Milton et. al., 1986). Becker and his associates have described the disruption of learning because of the students' preoccupation with grades (Becker et al., 1968, p.60)" (p.49)

Katz & Henry (1993) examined an often hidden phenomenon, which was also identified by participants in this study, where the student may not be effectively learning the material, and may be over-whelmed yet still manage to exhibit,

> ... a satisfactory, external performance likely to elicit good grades ... (despite) the fear and the anxiety students experience when confronted by a task that is too difficult for them to master. In such circumstances, when they intuitively know that they are up against an impossible learning demand, they may develop ingenious ways of coping and may even be able to earn grades higher than students who have learned and understood more about a given discipline." (emphasis added) (p.51)

Participants recognized the need for the law faculty to seriously consider alternate evaluation methods that would provide a more well-rounded appraisal of the students ability. This has become a particularly acute issue in recent years as the long-term impact of marks now has the potential to limit the ability of the graduate to find meaningful employment particularly as a lawyer. Although the "gate-keeper" role was always part of the admissions process, it was never intended that the purpose of the marking system was to determine which graduates could practice law in the future.

Other Factors

Informal or "Latent" Curriculum: According to participants in this study, a quality learning experience had to include more than the "formal" curriculum offered at law school. Participants commented that many of the "informal" learning experiences, including moots; client counselling and communication skills; and the Student Legal Aid experience, had been particularly influential. Rather than allow these positive outcomes to be simply acquired by chance, these experiences should be identified and incorporated into the formal curriculum of law school.

Participants recalled the benefits of combining their learning experience with the opportunity of providing assistance to clients. Those who had been involved in volunteer work as part of a Student Legal Aid clinic expressed that the act of doing, in the practice of law, helped the student to learn the theory. The incorporation of more clinical programs and the fostering of "reflection in action" in the learning experience of students would provide these experiences to more students in a structured setting. Again this would be a positive development that would be less dependent upon the "hit or miss" possibility of gaining experience through volunteer work.

A variety of practical lawyering skills were identified by participants which were not necessarily part of the clinical legal experience. These were also viewed as a necessary component of a quality legal education. Participants recognized, however, the difficulty of grasping practical skills and knowledge when these are only presented in a theoretical context. It would be helpful, therefore, for professors to incorporate a practical component to enable students to learn drafting skills, basic legal procedure and the interpretation of statutes. This may require simulation exercises which could provide both theory and practice in ways that are meaningful to the student. This would be preferable to the present system where essential lawyering skills are either neglected or the attempts made to teach these skills take place in a vacuum, unconnected to the real world of practice.

Theory Versus Practice Dichotomy: Literature in other areas of pre-professional education has demonstrated the benefits of incorporating practical clinical experiences into the teaching of theory. While this has been well-established in the past decade in other educational programs, the debate continues in legal education. Participants in this study provided insight into why clinical legal education and the clinical model have had limited acceptance in law schools. Primarily the concern appears to have been that clinical programs are indicative of a trade school approach to legal education. Despite a developing body of literature reconciling clinical programs with sound educational goals of the university, the experience in Western Canada has only indicated a very tentative acceptance. While consideration of clinical programs per se was not directly the focus of this study participants recommended numerous ways of accomplishing curriculum reform which would incorporate practical lawyering experiences with the more traditional teaching of theory and standard case law curriculum.

Self-Reflection upon the Teaching-Learning Transaction: The study of teaching and learning in law school is essential if a quality legal education experience is to be realized. According to Ramsden (ed:1988)

> Teaching is an activity that assumes an understanding of learning. To teach in a way that encourages changes in conceptions, instructors must recognize how students already think about phenomena ... teachers should, in fact, become scholars of their own students' learning, and an important implication of this argument is that teaching and research in education are two sides of the same coin. (p.13)

The teaching - learning transaction should continue to be the subject of ongoing study and reflection. Katz & Henry (1993) agreed with Ramsden, that the professor must take an active role in evaluating student learning when attempting to improve upon the quality of teaching.

> Teachers can function analogously to other professionals whose reflections on their practice become a source both of new theoretical knowledge and of advance in their methods. (p.16)

Yet Katz & Henry (1993) stated that "... for many faculty it is a new idea that they might inquire into the teaching - learning process as systematically as they inquire into the problems of their disciplines." (p. 36) This study supported the need identified by Ramsden (1988) for further research and dissemination of the outcomes of higher education studies on teaching and learning. This must include ongoing research by law professors themselves, as they are the practitioners of higher education according to Katz & Henry (1993).

Chapter 4 - Informal Learning in a "Quality" Education Experience

Participants indicated that many diverse experiences stimulated learning in law school. Some of these experiences were intended and part of the "formal" curriculum. Other experiences were part of the informal curriculum of the law school. These generated an underlying influence which had tremendous impact upon students. There were a variety of lessons "taught" to students by the learning environment whether or not these were part of the intended outcomes of the law degree program. Many of these influences were consistent with the stated or implied legal educational philosophy foundation of the law program. According to Jarvis (1995),

> Underlying every program of education there is a philosophy, whether it is explicit, or implicit, considered or rarely thought about, consistent or inconsistent ... (p. 208)

This "informal" curriculum was a powerful socializing force which had both positive and negative influences upon individual law students.

Further research would be necessary to study the impact of the "informal" curriculum on law students, however, participants in this study recalled both beneficial and detrimental experiences. Some of the most positive outcomes noted by participants were the direct result of voluntary involvement in practical lawyering experiences which students gained through Student Legal Aid work and participation in mooting. Interaction with peers was also considered beneficial both in terms of cooperative learning experiences in law school and the acquisition of long-term relationships which continued after graduation.

The more negative outcomes tended to be the result of the psychological environment of law school which fostered competition and over-emphasized high marks. Acquiring an articling position with a large down-town law firm was considered a prize within the law school environment and this created stresses in student learning. In particular, participants commented on the tendency to over-work and the resulting lack of balance in their personal lives. Research in this area has been limited and no recent articles have considered the impact of the learning environment or the "informal" curriculum upon the law student.

A key factor identified in the informal learning environment was the student body and the type of student admitted into the law school program. The criteria used in the admissions process determined the student population and a significant number of participants noted that the admissions policy should be reconsidered to meet the changing needs of society. In fact, according to one participant,

> The type of students you admit will partly determine what kind of law school you will end up with ... if you start admitting different types of students now, you're going to get a different kind of law school in ten years.

The primary recommendation of participants who commented upon the student body as an important factor in their educational experience was for greater diversity. There was a perceived need for law school to be more reflective of the greater society. Many participants felt that law school was elitist in nature and that there was an over-representation of the traditional and conservative power groups in Canadian society. Though admitting more "non-traditional" students through special quota's or simply changing the over-all criteria of admissions the student body can be changed significantly to accommodate greater diversity. This is important because by altering the student population the,

> ... law school culture changes, the classroom culture changes and the classroom discussions change." according to "Beatrice."

Advice to Law Students:

Know your direction and what it means to be a lawyer: Students were encouraged to seek out external sources of information about the legal profession. This could provide the student with the necessary dedication and determination to do well at law school and it helped the individual to assess whether they were making the decision to go to law school for the right personal reasons. The participants were in general agreement that in choosing a career as a lawyer, the individual,

> "Must enjoy it or it's a terrible way to make a living!"

Just as the law faculty has to establish clear aims and objectives, so does the law student need to identify the purpose of law school from a personal perspective. The student will be better motivated (Wlodkowski:1985) if they know why they are at law school and are clear in terms of what they expect to achieve. The importance of setting their own direction, the desire to tie learning to their personal experience and the need for a balance of theory and practice were all recognized as important by participants. These comments supported the general learning theory of andragogy as developed by Knowles (1978) and cited by Jarvis (1995). Knowles claimed that there are four main assumptions that differentiate andragogy from pedagogy. These are:

> 1) a change in self-concept, since adults need to be more self-directive;
>
> 2) experience, since mature individuals accumulate an expanding reservoir of experience which becomes an exceedingly rich resource in learning;
>
> 3) readiness to learn, since adults want to learn in the problem areas with which they are confronted and which they regard as relevant; and,
>
> 4) an orientation towards learning, since adults have a problem-centred orientation they are less likely to be subject-centred.

This "advice" to future students was also indicative of the literature of Schön (1987) who stressed the importance of establishing "congruency" between the pre-professional education received and the actual knowledge and skills required. Participants noted that an educational program which facilitated the successful transition from the law faculty to the workplace could be considered to have satisfied at least one important indicia of a quality legal education program.

Socialization pressures and the psychological impact of law school: The student must come to terms with the powerful psychological influences at law school. Participant comments in this respect reflected the findings of previous studies which uncovered the intense pressure on the individual student in a law school program. In part this was perceived to be the result of the overwhelming workload, the changes to the way in which the student thinks and views the world and also to the "mythology" of law school which appeared to be actively fostered by some members of the faculty. These factors and the psychological impact they have on students require further study and the findings need to be taken into consideration in planning a more positive learning environment.

Maintain balance when attending law school: Future students were encouraged to get involved and seek out professors and fellow students in order to establish relationships and networks of support which can be extremely valuable throughout law school and following graduation. While many participants advised future students to try not to take law school too seriously, it was recognized that this would be difficult advice to follow in law school, "... it's easy to say, I should have been more relaxed, but doing it is another thing." Unfortunately, it was also recognized by participants that if the student is unable to achieve balance and becomes over-whelmed by the experience, then the ability to learn will be directly, and most often negatively, affected. Some participants admitted they were able to continue to learn, and did learn a tremendous amount, but that the cost of a legal education was enormous in terms of stress and long term impact on their mental and physical health and personal relationships with others outside of the law school environment;

Volunteer involvement: The three primary reasons identified by participants to be involved in Student Legal Aid were:

1) to learn the law in context;
2) to acquire necessary skills which are not taught at law school; and
3) to help others who are disenfranchised from the legal system.

As one participant commented "... it is just a very practical, rewarding, socially important thing to do ..."

Don't expect to work as a lawyer: Future students were advised to consider alternate employment following graduation and many participants simply stated, "Don't go!". Other participants recognized that there were benefits to a law school education but they also commented that graduates need to keep an open mind about what they will be doing with a law degree or they should not go into law school. It was no longer considered a guarantee of a well paying professional position as a lawyer and in some cases did not even assure the graduate of employment. If the individual decided that they wished to practice law then participants forewarned them of the need to take responsibility for their own education in order to meet the challenges of work as a lawyer in the future.

Chapter 5 - Current Challenges and Future Direction

This chapter considered the participants views on legal education issues which should be addressed in the future. Participants identified key challenges for law schools particularly the need to be more attuned with changes in society. The law faculty must respond to these issues if the acquisition of a law degree is to continue to meet the needs of the profession, society as a whole and future students.

The two key issues for participants were technological change and the number of law graduates. Law schools were not perceived of as doing a stellar job in addressing either of these challenges and the concern was expressed that this will simply lead to the increasing seriousness of these problems in the future.

In addition, the overall cost and quality of legal education was seen to be jeoprodized by recent cuts in funding. This was considered particularly unfortunate as it comes at a time when students face an increasingly competitive field of law upon graduation. In order to assist the students transition in a world of change and competition there was an identified need to determine which core courses were relevant. Participants stressed that a balance must be struck between theory and practice. This should be achieved through ongoing dialogue between the law faculty and the legal profession.

Finally life long learning while not directly identified by participants could play a critical role in addressing the changing needs of the profession. Law schools should play a part in promoting later professional learning and helping to set the pattern of continuing professional education in the pre-professional years. The law faculty could, in fact, consider adopting an enhanced function where the student receives assistance, not only while enrolled in law school, but also following graduation, in their transition from law school studies to the practical realities of the work-place.

Technological & Change

Law schools must accommodate new technologies and meet the challenges of the information age. Providing the opportunity for students to specialize may be one adaptation required by the increasing amount of information students are expected to cover. The rapid expansion of the number and complexity of laws may necessitate the end to the old scheme of educating generalists in the law. Students and faculty will need to adapt to changes in the methods of teaching and learning in order to meet the needs of the new paradigm which is "change itself". Law schools need to take a more active role in fostering self-directed learning as a well educated lawyer is no longer a static concept. Rather the graduates of law school will need the skills to develop their own ongoing educational program. Law schools need to take the initiative in setting up contact with, and using the resources of, the legal profession in order to meet these challenges.

Too Many Graduates

Kulig (1995) provided the following statistics on the phenomenal growth of numbers in the legal profession in recent years:

> Certainly, there are a lot of lawyers. According to the Federation of Law Societies of Canada, there were 61,317 lawyers in the country in 1994-1995, up almost 20,000 from a decade earlier. (p.15)

Quota's are only one of the proposed solutions that need to be considered in resolving the issue of too many graduates. Participants did not necessarily favour this approach, but there were few other recommendations. A primary concern was the impact this would have upon the student body and the fear that an already unrepresentative selection process would become even less reflective of the diversity in society. Participants thought that if law schools were to play an active role in fostering alternate career options for graduates then it might be possible to continue with the current levels of enrollment. There has to be some recognition, however, that the over-whelming majority of students plan to practice law so this may not be a very realistic option.

Participants were in agreement that the current marking systems and methods of evaluation need to be addressed. In particular there must be an immediate study of the current situation where marks are having the unintended consequence of determining which graduates will have the opportunity to practice law. The consequences are becoming increasingly serious for more students each year. In the past, graduates were not precluded from the opportunity of demonstrating their ability in the actual practice of law. In the current job market, individuals may be effectively precluded from ever becoming lawyers. This was not the original intent of the marking system and there should be an over-all reassessment, given the realities of the present employment situation.

Core Courses and Relevance

Most participants were concerned that law students must graduate with a certain threshold level of knowledge and the ability to make the transition to private practice. The discussion regarding core courses again reflected the necessity for setting clear aims and objectives. In order to achieve this, there continues to be a need for law schools and the Law Societies in the respective provinces to set aside funds to study the situation in Canada. Little research has been done in Canada on the skills, knowledge and attitudes that graduates of law school should possess. Without this guidance it will be difficult to effect meaningful and lasting changes. Further research and development in this one primary area would provide the fundamental building block in improving the quality of legal education in Canada.

Balance between theory and practice

According to Mudd (1986), "... much of the history of legal education centres on the tension between those who view law school as part of the university's scholarly community and those who see them as training grounds for new lawyers." (p.191-192) Mudd (1986) contended that the over-all assessment of legal education was not favourable particularly in the accusation that law professors do not adequately prepare their graduates for law practice.

Mudd stated that "... the law school curriculum is neither properly theoretical nor adequately practical ..." (p. 189) and this at least in part creates unproductive stress and anxiety in students. Participants agreed with Mudd in this respect. Their own comments illustrate the lack of congruency between the expectations of law students and the reality of the current law curriculum. This was identified as one of the fundamental issues of contention and it accounted in large measure for the overall lack of satisfaction expressed in regard to the legal education experience.

Mudd (1986) also supported the participants observations that there was an unchanging character to law school, "It is striking how effectively law schools have resisted change over the years." (p. 190)He found that law schools offer a very limited view of legal education,

> ... and one obstacle to creative thinking about educating lawyers: (is that) law professors have mistaken one aspect of lawyering, the cognitive or rational dimension, to be the whole of lawyer performance and they have structured legal education accordingly
>
> To overcome this conceptual barrier requires looking beyond the curriculum to the world of lawyering in all its dimensions as the proper starting point for evaluating a law school's academic program. (p. 191)

If the law faculty was serious in wanting to improve the quality of learning in law school, than it would be instrumental to move toward a more student-focused approach to teaching law. By considering the comments of graduates it was readily apparent that establishing a balance between academic theory and practice was also considered a critical element of a quality legal education.

IMPLICATIONS FOR FURTHER RESEARCH

Qualitative studies often raise more questions than they answer. This study was not an exception to this general rule and in many ways the most important implications of this study are in terms of the issues raised and the research questions generated.

The questions which emerged from this study relate to the need to learn more about the experience of law students and to sort out the variables involved in their interaction with the law school learning environment. It would be informative to explore any one of the questions asked of this small sample of participants with a larger sample of participants or to investigate similar issues through follow-up studies. Participants could be asked to evaluate elements of their legal education experience upon graduation, and again later once they have entered their chosen career, to discover whether responses are consistent over time. Is there a lasting impact of law school upon later career success or satisfaction generally in career choice or do later work experiences "colour" the perception of law school experiences?

Another possible area for further investigation would be to consider the impact of law school on the actual practice of law or upon the graduates involvement in continuing professional education and life-long learning. Were perceptions of learning permanently altered by the legal education experience? This question was raised by participant comments that their years in undergrad were generally more pleasurable and that law school was found to be "narrowing" and not as enjoyable. In fact, only two participants indicated that they intend to return to university, one intended to pursue an Education degree and the second was as yet unsure of future direction. Participants were not asked whether they continue to participate in other forms of continuing education, therefore further research would be required to determine whether comments may be linked or connected to how participants view life-long learning generally as opposed to subsequent university education.

Further study could also consider similar research questions but relate responses to specific characteristics of the learners:

> Are there gender, age, ethnic or racial, economic or social, factors or differences among the students which impact upon their response to legal education?

Teaching and learning are an intertwined phenomenon which cannot easily be separated for study. The role of the instructor, the student and the administration in improving the quality of the education experience require further exploration in higher education, particularly in pre-professional programs of study such as law. While there may be no one best way to teach, there are common principles that can assist the instructor so that no matter what method is chosen it facilitates student progress. Students, in turn, could be assisted to identify preferable learning strategies and take a more active role in their own education. This will becoming increasingly critical due to the pace of change and the demands made upon institutes of higher learning in the future to be accountable to the public.

There should be further exploration of law school education for while there are many strengths, there are also identified areas which warrant improvement. Positive change hinges upon the law schools identifying educational goals, preferably as part of an overall analysis of the aims or mission of law school. These objectives will need to address the needs of the students, the Law Society and the ultimate consumers of legal services - future clients. In the words of Lang (1990)

> A law school should not be merely an additional university philosophy department operating in a law building dominated by educators who are misinformed as to what lawyers do, further unaware of public needs for legal services or, in the alternative, have some awareness of both but take a "public be damned" attitude. (p.79)

The final area identified for further study was the issue of learner self-evaluation and ongoing reflection which requires a great deal of thought about what one is doing and what practices might be improved. Schön (1983) has discussed the importance of reflective practice for professionals and it clearly warrants attention as prospective lawyers will be required to teach themselves the answers to problems that were not even conceived of when they attended law school.

SUMMARY

A quality legal education must aim to realize high ideals and improve society, yet at the same time graduate students who understand the current system well enough to participate competently in society as it presently exists. Graduates need to be able to function as effective professionals and work continually to improve the system. A touchstone of a quality law school could be evidenced in the careful consideration of Tyler (1949), who stated that in setting educational objectives the question must be asked, "Should the educated man adjust to society, should he accept the social order as it is, or should he attempt to improve the society in which he lives ..." (p.35).

The outcome of this research has important ramifications. Law as a profession is indispensable to the functioning of our society and there are many demands made of the law faculty in educating future lawyers. Gordon (1994) stated that at the end of the educational program:

> Good lawyers must have the skills required for professional competence. But this is not enough. They must know how to carry the burdens of other people on their shoulders. They must know of pain, and how to help heal it ...

> ... lawyers are persons to whom people open up their innermost secrets when they have suffered or are threatened with serious injury. People go to them to be healed, to be made whole, and to be protected from harm. These are large and important tasks, and they require all that lawyers have to offer. they require both good minds and good hearts - not only mental acuity and professional, skill, but also compassion, righteousness, mercy, and strength to suffer and carry pain. That is what it takes to be a truly good lawyer. and the world desperately needs truly good lawyers. (p.130)

The legal profession includes some of the best educated and most powerful people in our society yet a quality legal education cannot be measured by worldly outcomes of wealth or power. Rather efforts toward excellence in legal education and improvements in the study and practice of law are best evidenced by graduates who have developed their knowledge and skills fully in order to increase their ability to serve others in society.

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Appendix - "A"

TELEPHONE REQUEST

I) HELLO, My name is Brenda Davis.

(You may remember me from law school.

OR

(I am a friend of .... who gave me your phone #

I have just flown in from Vancouver, (or I am in ....) and I am trying to complete a research study by the end of August.

I am currently a graduate student in the Faculty of Education and I am working on completion of a thesis on law school education experiences. I would like to invite you to participate in a research study I am doing.

I will be gathering together @8 lawyers to talk about their law school experiences. The session will last between 1 1/2 and 2 hours - on Thursday, July 25 between 7:00pm and 9:00pm in the West End. (Address: ....)

Do you think that you will be able to join us?

"YES" (then continue with II)

"NO" I am (*also*) conducting a number of 45 minute interviews in early August to discuss the same topic on a one-to-one basis - Do you think that you would be available to participate during the week of August 7 (*x*) - 14 (*y*). It can be at any time convenient to you (morning or afternoon).

"YES" Book interview .... (then continue to II)

"NO" Do you have anyone that you could recommend that may wish to participate:

If YES, then take name and phone #

If NO, then thank person for their time.

II) I will be mailing out a confirmation letter which will give you further information about the study.

Do you have any questions or would you like any more information about the study at this time?

"NO"	(then give phone numbers below - III)
"YES"	(then continue with background information)

BACKGROUND: The purpose of the study is to determine what a "quality" learning experience at law school means to a former law school graduate. I want to find out how you, as a former student (at a Western Canadian Law faculty), think about your law school experiences - how you would define quality legal education and what influenced the quality of your educational or learning experiences.

To do this, I plan to first conduct a "group session" (where 6 to 8 people - representative of a range of graduating years) meet to reflect upon and discuss their learning experiences at law school. I will then follow-up their comments by conducting a number of one-to-one interviews with a different group of law graduates.

You have been selected because I hope to include students who come from a variety of backgrounds. All information that is gathered will remain anonymous and confidential. Also, your participation in this study is completely voluntary and you are, of course, free to drop out at any time.

Do you have any (further) questions (or concerns) about the study?

III) My name is Brenda Davis and I can be reached at (phone # ....)
- my faculty advisor is Dr. David Collett and he can be reached at (.....................)

Follow-up letter & phone call prior to group session.

NOTE: *Section in italics was used only for setting up Focus Group #2*

Appendix - "B" (Focus Group Confirmation Letter)

Brenda D. Davis

Dear July 20, 1996

Thank you for agreeing to participate in a group discussion on law school experiences. The information gathered will help me to complete my research and thesis, for a Masters degree from the Department of Education (Policy & Planning) at the University of Alberta.

The primary question that will be addressed in the research is:

> What do lawyers think, when reflecting upon their own experiences as law students, about the "quality" of their legal education in law school?

Please note, that "quality" is a term which will be defined by the group discussions, of which you will be a part, and later interviews with other law school graduates. While I am asking you to consider your personal experiences of law school, the entire research project includes individuals who graduated from a number of universities in Western Canada over the past 10 years. Therefore the final analysis of information provided will be "generic", encompassing legal education generally rather than evaluating or commenting upon a specific law faculty.

As I mentioned to you on the telephone, the group that I am gathering together in Edmonton will be encouraged to discuss their own personal experiences from law school and I am quite interested in hearing what you have to say about this topic. Participants in this group include:

"Mary"
"Kent"
"Jake"
"Dawn"

"Brad"
"Ella"
"Greg"
"Sara"
"Joan"

Following is the date, time, and location of the group discussion session in Edmonton. The session will last between 1 1/2 - 2 hours.

DATE & TIME: **Thursday, July 25 between 7:00pm and 9:00pm**
LOCATION: **Address:**
Phone:

There is accessible parking on the street and I will be providing beverages, fruit and cheese. Thank you again, for agreeing to join us.

Brenda D. Davis

Appendix - "B" (cont.)

If you have any questions or would like further information about the study please feel free to call me, (Brenda Davis) at .... or my faculty advisor (Dr. David Collett) at ......

PLEASE FIND ATTACHED:

1) Draft "Informed Consent" Agreement

2) Other Participants:

> In Part II, of the study I will be conducting a number of 45 minute interviews in early August to discuss the same topic on a one-to-one basis. This will involve a completely different group of law graduates.
>
> - Do you know anyone that you think may be interested that you would be available to participate during the week of August 7 - 14. The interview can be at any time during the day, at any location:
>
> Name:
> Phone Number:
>
> (Please Note: Individual must have graduated from a Western Canadian Law School during the period 1985-1995)

3) Further information about the study.

BACKGROUND:

The purpose of the study is to determine what a "quality" learning experience at law school means to a former law school graduate. I want to find out how you, as a former student (at a Western Canadian Law faculty), think about your law school experiences - how you would define quality legal education and what influenced the quality of your educational or learning experiences.

To do this, I am first conducting two "group session", in Vancouver and Edmonton, where 8 to 10 people - representative of a range of graduating years, will meet to reflect upon and discuss their learning experiences at law school. I will then follow-up their comments by conducting a number of one-to-one interviews with a different group of law graduates.

You have been selected because I hope to include students who come from a variety of backgrounds. All information that is gathered will remain anonymous and confidential. Also, your participation in this study is completely voluntary and you are, of course, free to leave the study at any time.

Appendix - "C"

CONSENT FORM

I have been informed by Brenda Davis that she is in the process of completing her Masters thesis at the University of Alberta, Department of Education (Policy Studies) and that the research she is conducting involves talking to former graduates of law school about various aspects of their experiences at law school.

By agreeing to take part in the study, I understand that my comments will be taped so that an accurate record can be made of the interview and that the transcript of these tapes will be coded so that all information used in the thesis or relayed in any way, in any publication will be anonymous. I also understand that any information I give is completely voluntarily - I can choose to refuse to comment on any particular question and at any time I am free to withdraw from the study.

By signing below, I am giving permission to Brenda Davis to tape the interview and to use the information gathered with the understanding that I will not be identified.

NAME (Please Print): ....

SIGNATURE: ____________________

DATE: ____________

LOCATION: ____________

Appendix - "D"

"PRE"-INTERVIEW QUESTIONNAIRE

NAME:

BIRTH DATE:

PRE-LAW EDUCATION: (DEGREE & YEAR)

ADDITIONAL FACTORS: In what way was your background unique - (and/or) - did you have special circumstances that affected your law school experience?

WHY DID YOU DECIDE TO GO TO LAW SCHOOL?

LAW SCHOOL ATTENDED:

MARITAL STATUS (during law school):
.... - Married or Common-law .... - Single (at home) .... - Single (on own)

CHILDREN (during law school) - "NO"........... "YES" (if yes, how many) ....

YEAR OF GRADUATION: ....

WHAT LENGTH OF TIME HAVE YOU WORKED FOR:
.... Small Firm (5 or less lawyers)
.... Mid-Size Firm (6 to 15 lawyers)
.... Large Firm (16 or more lawyers)
.... Government
.... Other (please give details)

....

WHAT HAS BEEN THE PRIMARY FOCUS OF YOUR WORK TO DATE?

WHAT IMPACT HAS LAW SCHOOL HAD ON YOUR CAREER?

Would you like a transcript of your comments for review? YES / NO

Follow-up:

Name of person(*) who may be willing to participate in a one-hour interview:

NAME: ....

TELEPHONE: ....

(*) Person must be a law graduate of a Western Canadian University between the years 1985 - 1995.

Appendix - "E"

Moderator's Guide[1]

I. Introduction

- A. Welcome
- B. Statement of the purpose of the interview
- C. Guidelines to follow during the interview

II. Warm-Up

- A. Set the tone
- B. Set the participants at ease

III. Establish Easy and Non-threatening Questions

- A. The initial questions should be general and less threatening

IV. Establish More Difficult Questions

- A. The more difficult or personal questions should be determined

V. Wrap-Up

- A. Identify and organize the major themes from the participants responses
- B. Ensure that any conversational points not completed are mentioned

VI. Member Check

- A. Determine how each member perceives selected issues

VII. Closing Statements

- A. Request anonymity of information
- B. Answer any remaining questions
- C. Express thanks

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[1] Vaughn, S., Schumm, J.S. and Sinagub, J. (1996) Focus Group Interviews in Education and Psychology, SAGE:Thousand Oaks - Table 4.1 Overview of the Sections in the Moderators Guide p.43

Appendix - "F"

FOCUS GROUP PARTICIPANTS - QUESTIONS (MODERATORS GUIDE)

ROUND TABLE:

Why did you decide to attend Law School?

QUESTIONS:

What (do you think) is the purpose of Law School?

What was the most important thing you came away from Law School with?

> That you still use today? ...... formal experiences ...... ? informal experiences ...... ?

What does the phrase "to think like a lawyer" mean to you?

> Did Law School teach you "to think like a lawyer"?
>
> How does Law School do this?

What is your over-all assessment of your law school experience in terms of the teaching and learning dynamics?

> Give examples of effective teaching ....
>
> Give examples of effective learning ....
>
> What other factors affected your law school experience ...?

What was your experience with the "Socratic Method" at Law School?

What did you think about marks and the evaluation system generally (at Law School)?

How could your legal education experience have been improved?
(please give specific examples if possible)

What do you see as the greatest challenge in legal education that law school faces

- today?
- in the future?

ROUND TABLE:

What piece of advice would you give to law students entering law school today?

Any final comments from the group before we finish up? (SILENCE)

THANKYOU!

Appendix - "G"

INTERVIEW GUIDE

Why did you decide to attend law school?

What do you think is the purpose of law school?

Probe: How does it (the purpose) compare to your undergraduate degree?

Probe: Was the purpose/objective of the two degrees different?

What do you think is a necessary part of an excellent legal education?

Probe: If you were to set up your own law school what would you identify as the critical elements of a law school?

Probe: What is an important ingredient in a "high" quality legal education

What was the most important thing you came away from Law School with?

Probe: That you still use today?

What does the phrase, 'to think like a lawyer' mean to you?

Probe: Did law school teach you to do this (think like a lawyer)?

Probe: How does law school teach you to think like a lawyer?

What is your over-all assessment of your law school experience as an 'educational' experience?

Probe: Give an example of effective teaching (was there something a professor(s) did that worked for you)?

Probe: Give examples of effective learning strategies (what did you do that worked?)

Probe: What other factors influenced the teaching/learning dynamic in law school?

Probe: Are there any other factors that affected your law school experience?

Probe: Did you notice any difference between instructors who were full time academic faculty and practitioners who taught?

(If yes)	Probe:	What were the differences?
	Probe:	Did you have a preference between academic faculty and instructors who were practitioners?

What was your experience with the 'Socratic method' at law school?

Probe: What other (teaching) methods were used?

What comments do you have on the marking system and methods of evaluation used at law school?

Probe: What methods of evaluation were used?

Probe: On the whole did you find that the marks you received in a particular course accurately (reflected or) evaluated your learning?

(In other words, if you learned more in a course were your marks higher and if you learned less were your marks lower, or was there no correlation?)

How could your legal education experience have been improved?

Please give specific examples if possible

What do you see as the greatest challenge in legal education that law school faces

Probe: .... today?

Probe: ... in the future?

What last piece of advice would you give now to a law student (who is like yourself) entering law school today?

Probe: How would you tell them to go about law school?

Probe: How can a student get the most out of the law school years?

Any final comments on how legal education can be improved now based upon your past experience both educational and professional?

Probe: If you were talking to the faculty at your law school today what would you say ....

Probe: If you were asked to teach a course (at the law faculty) yourself what would you make sure to do ....

Any comments before we finish up today?

* *NOTE:* *Questions and Probes in Italics were used only in the last interviews conducted.*